Planning Inspectorate

Costs Decision

Hearing held on 19 November 2024

Site visit made on 19 November 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 21st February 2025

Costs application in relation to Appeal Ref: APP/R4408/W/24/3347461
Land to rear of Greenland Cottage, High Hoyland Lane, High Hoyland, Barnsley

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Steven Warsop for a full award of costs against Barnsley Metropolitan Borough Council.
- The appeal was against the refusal of full planning permission of the erection of 1 no. Self-Build Residential Dwelling.

Decision

1. The application for an award of costs is refused.

The submissions for Mr Steven Warsop

2. The costs application was submitted in writing. During the Hearing the applicant added the following points orally that the Council failed to respond within the prescribed time limit; Council Officers made unprofessional comments in relation to the applicant; and it appeared as though the Council pre-determined the applicant's planning application.

The response by Mr Matthew Smith, Barnsley Metropolitan Borough Council

3. The response was made in writing. During the Hearing Mr Smith added orally that it was unfair to question the professionalism and integrity of the Council's officers.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

5. The applicant suggested during the Hearing that if the benefits of the scheme had been correctly assessed the Council should have granted permission. The Council has undertaken a planning balance within the Delegated Report which specifically references the development of a self-build dwelling. Whilst the reference may have been brief, I am satisfied that the Council has considered this as a benefit. Furthermore, as set out in my appeal decision, I do not concur with the applicant's suggestion that once the benefits have been considered the Council should have granted permission.

6. During the determination of the application the Council informed the applicant of delays to the determination, due to staff changes and absences of key staff. Although the Council took longer than the statutory time limit to determine the application, there was extenuating circumstances which the Council informed the applicant of. Similarly, the Council has outlined that both the Senior Urban Design Officer and Forestry Officer are sole practitioners who both have high workloads. Although these comments were received late by the Case Officer, including after the determination of the planning application in the case of the Forestry Officer, there were extenuating circumstances. As such, this does not constitute unreasonable behaviour.

7. There is no evidence before me that the response from the Senior Urban Design Officer was factually incorrect. Furthermore, whilst the Council should work proactively with applicants, it is not a legislative requirement to seek to resolve all matters of dispute. An amended scheme would have needed to be submitted to address the Council's concerns with design. The amended scheme would not have resolved the Council's objection to the principle of the proposed development and therefore, the application would still be dismissed. It is therefore reasonable for the Council to not further delay the determination of the application.

8. It is reasonable for a Planning Officer to not consult a legal representative or the planning policy team when assessing a scheme that is based upon established case law and historic decisions. After reading the Delegated Report, I am satisfied that they have taken account of relevant matters in their assessment. There is also no evidence that an appropriate consultation was not undertaken at both the planning application and appeal stage.

9. As outlined within the PPG, prolonging the proceedings by introducing a new reason for refusal may give rise to a procedural award of costs against a local planning authority. The effect of the proposal on trees was a main issue within the appeal and did not form one of the reasons for refusal. However, the Council did note in the Delegated Report that its concerns with the effect of the proposal on trees would need to be adequately resolved if planning permission were to be granted. Following the determination of the planning application, the Council continued to correspond with the applicant to reduce the matters in dispute, with regard to the effect of the proposal on trees and protected species. In this instance, the introduction of a new reason for refusal has not prolonged the proceedings as other matters in dispute have been resolved during the correspondence following the planning application. Therefore, this does not amount to unreasonable behaviour.

10. There is not a legislative requirement for case officers to undertake a site visit. Furthermore, the site is subject to an extensive planning history and Council officers have previously visited the site. This has informed the Council's reasoning on the principle of the development. I do not consider that a lack of a site visit has led to the Officer misunderstanding the facts of the case. Similarly, there is not a requirement for the Forestry Officer to enter the site prior to providing comments.

11. During the Hearing, the applicant outlined a timeline of the application and advised that the Case Officer only had 4.5 days to assess the application and indicate that they were minded to refuse it. The applicant has indicated this has given the impression that the decision was pre-determined. Nonetheless, there was an opportunity for the Case Officer who was originally allocated the planning

application to have a conversation with the newly appointed Officer prior to them leaving the authority. Moreover, there is no substantive evidence before me to indicate that the Case Officer did not fully assess the facts of the case or that the Council pre-determined its decision.

12. I acknowledge the applicant's comments in relation to the publication of personal and confidential information and in relation to comments made by the officers to one another via email. The publication of the information and comments made by officers are matters between the applicant and the Council. However, there is no indication as to how this has directly led to unnecessary or wasted expense in the appeal process.

13. In conclusion, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J Hobbs

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Richard Mowatt	Planning Consultant
Mr Steven Warsop	Appellant
Mr Steven Green	On behalf of the appellant
Mr Samual Green	On behalf of the appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Smith	Group Leader, Development Management
Mr Nicholas King	Senior Urban Design Officer
Mr Edward Jowett	Tree Officer

DOCUMENTS:

Copy of internal email correspondence between Council officers dated from 8 February 2024 to 24 June 2024