



Costs Decision

Site visit made on 21 May 2019

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

Costs application in relation to Appeal Ref: APP/E2205/W/18/3217810 Burnt House Farm, Burnthouse Lane, Smarden, TN27 8PT

- 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 Ms G Worrow for a full award of costs against Ashford Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for demolition of existing bungalow and erection of replacement dwelling and detached garage (amended detail to permission ref: 05/00543/AS for extensions) without complying with conditions attached to planning permission Ref 10/01687/AS, dated 9 March 2011
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Decision

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

Reasons

2. An award of costs may be allowed where it is found that a party behaves unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant's case is that in failing to determine the application that is the subject of this appeal the Council has prevented or delayed development which should clearly be permitted.
4. The Council have provided a detailed report which sets out their reasoning. Although it can be seen in my main decision that I come to a different conclusion, the recommendation made by the Council has been substantiated and is not unreasonable. Consequently, the failure of the Council to determine the application has not resulted in the need for this appeal and therefore this has not led to wasted time or expense for the appellant in this regard.
5. Although the Council failed to determine the application in the specified time, the guidance is clear that costs cannot be claimed for the period during the determination of the planning application and that awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission. As such I do not find unnecessary or wasted expense in the appeal process in this regard.
6. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.

7. For this reason, an award for costs is therefore not justified.

H Miles

INSPECTOR