



Costs Decision

Site visit made on 15 July 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Costs application in relation to Appeal Ref: APP/K2230/W/19/3225211 Sunny Slope, Longfield Avenue, Gravesend DA3 7LA

- 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 and Mrs M Holden for a full award of costs against Gravesham 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 the Demolition of existing dwelling and erection of replacement bungalow. .
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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.
3. The applicant has stated that the Council failed to determine the application within the statutory timescale and acted unreasonably in that it did not give any clear indication of the timetable within which a decision would be made. This resulted in the applicant incurring unnecessary time and expense in lodging and pursuing the appeal.
4. The Council acknowledges that it failed to determine the application within the necessary timescale and failed to seek an extension to the timetable with the applicant.
5. The Council states that there were extenuating circumstances, in that it did not have the resources available and was unable to meet the necessary timetable of 12 November 2018. This was relayed to the applicant but having considered all of the correspondence between the two parties, submitted as evidence, it is clear that the Council was still unable to provide a clear timetable for a decision being reached, by the time the appeal was lodged in March 2019.
6. There is no doubt that this delay resulted in the applicant incurring additional time and expense in lodging and pursuing the appeal and the re-submission of the application. Whilst the Council states that the applicant would have pursued the appeal in any case, had it determined the original application and therefore no additional cost or time has been wasted or incurred, this is not certain and circumstances in the intervening period may have changed. Further, it was only

after the appeal was lodged that the Council begun to determine the re-submitted application, rather than the original application for which the Council failed to submit a Statement of Case for the appeal.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Gravesham Borough Council shall pay to Mr and Mrs M Holden the costs of the appeal proceedings described in the heading of this decision limited to preparing the appeal forms; the Grounds of Appeal; the site location plan and supporting documents; the collation and attachment of the application documents and the application for costs, such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Gravesham Borough Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Paul Wookey

INSPECTOR