



Costs Decision

Site visit made on 17 March 2020

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 April 2020

Costs application in relation to Appeal Ref: APP/Q4245/W/19/3242794 57 Moss Lane, Timperley WA15 6LQ

- 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 David Jefferies for a full award of costs against Trafford 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 the demolition of existing detached garage. Single storey side and rear extension with attached single storey garage.
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Decision

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

Reasons

2. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Local planning authorities are at risk of an award of costs against them where there is evidence of preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The applicant's concerns relate to the conduct of the Council with regard to their late introduction of the issue of the appeal site being considered as a non-designated heritage asset and the subsequent failure to determine the application.
4. Whilst I am not provided with copies of the relevant correspondence between the main parties, reference is initially made to exchanges on and about the 11 September 2019 close to the 8-week deadline for the determination of the planning application. I note that the applicant suggests that the planning application was to be supported at officer level, however, he was subsequently advised that the recommendation would be reversed on account that the building was considered to be a non-designated heritage asset by the Council.
5. The applicant considers that the Council's approach to heritage assets was contrary to the advice in the PPG and was therefore unreasonable. However, whilst the guidance advocates that decisions to identify heritage assets should be based on sound evidence and will generally occur through a formal process, it recognises that in some cases non-designated heritage assets may be identified during the decision-making process.

6. Having viewed the site and identified that the appeal building is of a high quality appearance and contributes to a group of properties which display fine examples of period architecture, I find that the Council was within its remit to raise the matter of heritage value and find that the existing building within its context could amount to a non-designated heritage asset. In doing so, it was entitled to consider the development having regard to Policy R1 of the Trafford Local Plan Core Strategy (2012) and Section 16 of the National Planning Policy Framework (the Framework). I therefore conclude that the approach by the Council was reasonable in that respect.
7. The late notification of the issue was unfortunate, but I note that subsequent to disclosure of the Council's cause for concern, the parties agreed an extension of time for the further consideration of the application. Within that period an opportunity was provided to the applicant to submit additional material in support of the planning application. The applicant states that the Council subsequently indicated that it could not support the proposal and a request for determination was made to the Council in response. In the absence of a formal determination the applicant was subsequently been left with no alternative to register the appeal to progress matters.
8. The failure to determine the planning application in a timely manner and without explanation as to the cause of the delay constitutes unreasonable behaviour on the part of the Council. However, notwithstanding my finding in respect of the appeal, I find that the Council was entitled to consider against the relevant local plan policies and the Framework as they relate to heritage assets in order to come to a balanced judgement on the proposals. Being mindful of the Council's advice to the applicant whereupon the differences between the main parties was established, it appears that an appeal would've been inevitable in this instance. In those circumstances, unnecessary or wasted expense has not been demonstrated.
9. In concluding on the basis of the evidence before me, I find that although unreasonable behaviour in the failure to provide a timely decision has occurred this did not, in itself, lead to the necessity to register the appeal. The applicant advises that he had been made aware of the Council's intentions such that had the decision been issued in a timely fashion, it would have been necessary to engage the appeal procedures in any event. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Hitchcock

INSPECTOR