
Costs Decision

Site visit made on 28 July 2020

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 21 August 2020

Costs application in relation to Appeal Ref: APP/Z2830/W/19/3243947 Little Farm, Careys Road, Pury End, Towcester NN12 7NX

- 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 S Feven for a full award of costs against South Northants District 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 a detached dwelling incorporating existing garage.
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Decision

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

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 contends that the Council acted unreasonably due to there being no meaningful correspondence or discussion during the 6 months the application was being considered prior to the appeal. They consider the failure to make a decision in this time created the need to go to appeal and caused unnecessary or wasted expense in the process.
4. The PPG states where an appeal against non-determination is allowed, the Council may be at risk of a costs award if there were no substantive reasons to justify delaying the determining of the application, and better communication with the applicant may have avoided the need for the appeal altogether. It also states that Councils are at risk if they have prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
5. The planning application was submitted on 19 June 2019. The appeal was lodged on 24 December 2019, around 6 months later. There is evidence of some correspondence between the two parties, though much of this is from the applicant chasing responses to queries or asking for updates on progress. Other than a telephone discussion in September, it appears that the Council only set out its concerns about the proposal in November.
6. The Council acknowledge that communication with the applicant was lacking and the application was not dealt with as efficiently as it would have liked. It

has described the correspondence as “not significant”. The reasons given for this are that the Council was understaffed at the time of the application and this resulted in unmanageable workloads for officers.

7. The Council accept that this does not justify delays in determining the application. From what I have seen, there appears to be no particular procedural issues that would have justifiably delayed the decision. Based on the evidence before me, the delay caused by the Council’s failure to determine the application within the statutory framework appears excessive. In my view, this constitutes unreasonable behaviour.
8. Nevertheless, although communication from the Council may have been limited, it remains clear that they did have concerns about the proposal. While the applicant may have considered these to either have been resolved or unsubstantiated, there is nothing to suggest the Council agreed with this position.
9. I acknowledge the Council did not pursue its concerns in relation to prematurity or effect on neighbouring properties. It is also apparent that the appeal statement does not make specific reference to the amended plans showing the proposed wall. The Council’s appeal statement still clearly sets out and justifies its concerns in relation to the impact on character and appearance. The appeal statement also identifies issues with the amenity space, other than those relating to security and privacy.
10. It seems highly unlikely therefore, that even if there had been better communication by the Council, or a decision made earlier, it would have avoided the need for the appeal altogether. The costs associated with this course of action would still have been incurred. As such, I consider that the delays did not lead to any wasted or unnecessary expense and thus an award of costs would not be applicable on this basis.
11. In addition, I have also come to the same conclusion as the Council with regard to matters of design and living conditions. This is not a case therefore, where the Council delayed development that should have been permitted having regard to the policies in the development plan, national policy and other material considerations. There is no evidence of unreasonable behaviour in this regard.

Conclusion

12. On the basis of the evidence before me, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and consequently the application for an award of costs is refused.

S J Lee

INSPECTOR