



Costs Decision

Site visit made on 9 September 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2020

Costs application in relation to Appeal Ref: APP/Q0505/W/20/3254412 6 Moss Bank, Cambridge CB4 1UR

- 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 Andrew Powell for a full award of costs against Cambridge City 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 change of use from a 6 person house in multiple occupation to include the retention of an existing annex outbuilding to create an 8 person house in multiple occupation (Sui Generis).
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Patently this is a two stage test. PPG also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded.
3. The crux of the applicant's claim for costs stems from the Council delaying consideration of the application, failing to issue a decision within its statutory life and ultimately leading to them submitting an appeal against non determination. Whilst not saying in detail how or to what extent, the applicant sets out that the delays have resulted in unnecessary costs.
4. The date on the planning application form was 15th April 2020. Via letter dated 26th May, the Council informed the applicant that the application was valid effective of 16th April. This would have given a determination date of 11th June. I would agree that a letter confirming the validity of the planning application over five weeks after it was submitted and made valid is sub optimal in terms of letting an applicant know when the statutory life of their application has started.

5. That said, the letter from 26th May does offer some explanation of the delay, and the date of informing the applicant was still within the eight week period which is the total maximum time the Council would have had to issue a decision. As well as a recent IT system upgrade, the Council refer to the impact of the COVID-19 pandemic as a delaying factor. The public health situation not only meant a lot of staff working away from Council offices but also movement restrictions led site visits to be put on hold and in some cases staff no doubt redeployed in the community.
6. Any IT systems issues aside, it would be unfair of me to levy too much criticism at the Council for delays caused by the pandemic. Quite simply, the Council are but one organisation who could not have foreseen the impacts of what was, and continues to be, an unprecedented global health crisis. I am also mindful that the 26th May letter explained the situation to the applicant and that a revised determination date could be agreed. At this point it strikes me that there would already be a backlog of cases either awaiting decision or awaiting their visit/responses to consultations. Any parties inputting into which may have been similarly affected. It seems to me on the basis of what I have seen that the Council have made some effort to explain the situation and what measures can be used to rectify it and potentially expedite a decision on the case.
7. The Council made contact with the applicant again on 15th June explaining that tentative steps were being made to resume site visits and as such to arrange one for the application. Again, some further weeks had passed but this was only four days after the end of the statutory eight week life of the planning application. All things considered; I do not find this unreasonable. Frustrating though I am sure this would have been for the applicant.
8. The applicant submitted an appeal against non determination on 18th June, three days after the Council made contact about arranging a site visit. This is the applicant's right since a decision was not reached inside the eight week life of the application. However, this in itself was only seven days after the end of that eight week life. All things being equal, this in itself was a short period of time and since the Council could have made a decision at any time up to and including the 11th without any justified recourse from the applicant, I cannot say that a period of seven days past the determination date is unreasonable. Nor can I agree that this seven days incurred any unnecessary costs. The appeal against non determination was the applicant's choice and thus costs from that point onwards entirely self borne.
9. The applicant alludes to a historical problem they have had with planning applications in with the Council. There may be some wider issues concerning staff resource or management that is causing delays, but this is not for me to make a judgement on. It is only my role to decide whether, in regard to this particular case, the Council has acted unreasonably and put the applicant to unnecessary or wasted expense.

Conclusion

10. For the reasons I have set out above, I do not consider this to be the case. An award of costs is accordingly refused.

John Morrison

INSPECTOR