



Costs Decisions

Site visit made on 29 September 2020

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2020

Costs application in relation to Appeal A: Ref: APP/R0660/W/20/3253453 Barn at land off Mottram Road, Alderley Edge, SK9 7JQ

- 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 John Parkin for a full award of costs against East Cheshire Council.
 - The appeal was against the refusal of the Council to grant planning permission for "conversion and extensions to barn"
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Costs application in relation to Appeal B Ref: APP/R0660/W/20/3253455 Barn at land off Mottram Road, Alderley Edge, SK9 7JQ

- 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 John Parkin for a full award of costs against Cheshire East 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 "conversion and extensions to barn."
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Decision: Costs application in relation to Appeal A

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

Decision: Costs application in relation to Appeal B

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

Reasons: Both costs applications

3. Paragraph 030 of the *Planning Practice Guidance* (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expenses in the appeal process. Paragraphs 047-049 set out situations which may result in a substantive or procedural award of costs against the local planning authority, although is not intended to be exhaustive or cover all situations.
4. Paragraph 028 says all parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met.
5. The applicant has raised a number of procedural issues concerning the Council's handling of both applications. These include statements that there

- was a lack of communication between the case officer and the applicant's consultant team and a failure of the case officer to work positively with the appellant and discuss achievable solutions to address the Council's concerns.
6. However, I note from the email trail before me that the case officer answered detailed queries setting out the Council's position and its interpretation of various policies. It is evident that there were delays in replying to some emails which had to be 'chased up' by the applicant, although it seems there were occasions when the case officer was genuinely not available.
 7. The applicant says the Council issued the decision notice (19/4598M) on the same day that a response from the Highways Department was received, and therefore the applicant's team were unable to respond to it. Whilst this was regrettable, I note that a potential solution to the highway safety objection (alternative vehicle access arrangements) were flagged up during consideration of previous application were not taken up by the applicant at that time.
 8. However, the procedures adopted by local planning authorities for determining planning applications are generally a matter for the authority within the context of local government accountability, and the purpose of the costs regime is not to resolve every allegation of unreasonable behaviour. Rather it is to decide whether an award of costs is justified or not on the available evidence.
 9. Overall, however and taking into consideration the significant number of exchanges between the parties on this and the earlier application seeking to reach some common ground and understanding, I am satisfied that any shortcomings in the handling of the application do not in themselves amount to unreasonable behaviour.
 10. In terms of substantive matters the applicant says the case officer failed to reasonably acknowledge and accept case law and photographic evidence, in relation to the 'original' extent of the building on the qualifying date for the purposes of the application of Green Belt policy. However, this matter appears to have been discussed in connection with a previous application where the Council confirmed that the size of the building and the proportionality of the proposed extensions was not in dispute. Therefore, there would be no need to revisit this evidence at the appeal stage.
 11. The appellant says the case officer failed to respond to requests for detailed feedback on the revised scheme (in Appeal B). These requests were set out in an email dated 4 May 2020 which referred to matters of planning judgement and comparable conversion schemes elsewhere in the Borough, amongst other things. The case officer acknowledged the email and said he would respond within a few days, although less than a month later the Council received notification that an appeal against non-determination had been made. Although this delay seems somewhat lengthy, the Council says detailed discussions were taking place with the Highway Authority at this time concerning the revised access arrangements. This delay in response does not amount to unreasonable behaviour.
 12. The applicant is also concerned by what he perceives to be the possibility of undue third-party influence in the decision-making process through email correspondence with the case officer, and feels that such regular correspondence could have served to prejudice the case officer's position. However, this is not apparent from the evidence before me, and in any event is

not something that I can consider in the context of a costs application. Any such concerns should more properly be addressed in the first instance through the Council's own complaints procedure.

Conclusion: Both costs applications

13. Therefore, for the reasons given above I conclude that unreasonable behaviour resulting in unnecessary expense, as described in paragraph 38 of the National Planning Policy Framework and PPG paragraphs 028, 030, and 047-049 has not been demonstrated in this case.

Nigel Harrison

INSPECTOR