



Costs Decision

Site visit made on 20 October 2020

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2020

**Costs application in relation to Appeal Ref: APP/P4225/W/20/3256387
Land at Higher Birtle, Near junction of Birtle Rd and Scotlans Lane, Birtle,
Rochdale (Easting: 831133; Northing: 413317)**

- 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 Ms Donna Smith for a full award of costs against Rochdale Metropolitan 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 stables (for domestic use).
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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 PPG indicates that local planning authorities (LPAs) are at risk of an award of costs if they behave unreasonably by delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The application was not determined by the Council. The PPG indicates that, if an appeal against non-determination is allowed, the LPA may be at risk of an award of costs if the Inspector concludes that there were no substantive reasons to justify delaying the determination, and better communication with the applicant would have enabled the appeal to be avoided altogether.
5. The planning application was validated by the Council in December. The Council refer to a range of factors, but no firm reasons have been provided for the delays in determining the application prior to an appeal being lodged in July.
6. I have been referred to correspondence in July which indicated that the Council were engaging with the applicant in discussions regarding a pre commencement condition to secure drainage details. In this respect, it is clear from the evidence that the application was due to be determined imminently and an extension of time was sought by the Council.
7. However, the PPG states that, if it is clear the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. Additionally, in any appeal against non-determination, the

local planning authority should explain their reasons for not reaching a decision within the relevant time limit.

8. From the evidence before me the applicant regularly approached the Council regarding a decision. However, even allowing for some flexibility with resourcing constraints, there is no detailed explanation or firm evidence before me to account for the delay in reaching a decision. Nor why it took until July for discussions to take place around surface water drainage and the use of conditions.
9. Although the applicant indicated that they would likely return to the drainage matter, which could have included an appeal against the drainage condition, other options would also have been available.
10. As such, with regards to the issue of unnecessary or wasted expense, the failure by the Council to determine the application led directly to the applicant submitting the appeal. The Council's actions have meant that the applicant has incurred unnecessary expense and an award of costs is justified.

Conclusion

11. 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

12. 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 Rochdale Metropolitan Borough Council shall pay to Ms Donna Smith, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Rochdale Metropolitan 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.

Robert Walker

INSPECTOR