
Costs Decision

Site visit made on 12 January 2021

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 16th February 2021

Costs application in relation to Appeal Ref: APP/Z1510/W/20/3261180 Land Adjacent To Oakleigh Lodge, Crabb's Hill, Hatfield Peverel CM3 2NZ

- 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 Mrs Lynn Lodge for a full award of costs against Braintree 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 new four bedroom dwelling on former garden site.
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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 where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. It adds that examples of unreasonable behaviour by local planning authorities include 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.
4. The Council failed to determine the planning application within the statutory time period. Part of the reason for the delay was the Arboricultural Report which was submitted after the statutory period. While the Council appear to have been impacted by the Covid-19 pandemic, it did not request an extension of time until some six months after the report was submitted. I see no reason for this being anything other than unreasonable.
5. I also note concerns regarding the communication with the Council during the course of the application subject of this appeal. However, the concerns of the Council for the proposal subject of this appeal were clearly articulated in the evidence submitted as part of the appeal. Accordingly, I consider that the Council has not failed to properly evaluate the application or consider the merits of the scheme. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The Applicant had to address those concerns in any event.

6. Therefore, while the applicant may have decided to refine the application rather than to appeal the decision had the application been determined, there is no certainty in this respect. As such, it is possible that since the Council found the development to be unacceptable, that the appeal would have been submitted in any event. Consequently, the Council's unreasonable actions have not resulted in unnecessary expense in the appeal process.

Conclusion

7. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Sabu

INSPECTOR