
Costs Decision

Site visit made on 9 February 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2021

Costs application in relation to Appeal Ref: APP/J0350/W/20/3261882 18 Willoughby Road, Slough SL3 8JH

- 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 WIL Developments for a full award of costs against Slough Borough Council.
 - The appeal was against the refusal of planning permission for the construction of a pair of semi detached houses with parking.
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Decision

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

Reasons

2. The National 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 or wasted expense in the appeal process.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant's costs submission claims that the behaviour of the Council was unreasonable and caused unnecessary expense and delay.
5. I understand the sense of frustration which delays to the determination of the application might have had, including the delay in issuing the formal decision notice. Furthermore, I also acknowledge the difficulties the appellant no doubt experienced with regards to the changes in case officer. However, on the basis of the information before me, it would not be reasonable to conclude that the Council behaved unreasonably in the procedure leading up to the appeal. Therefore, whilst the Council failed to determine the application within the requisite timescale, I do not find that it has put the appellant to unnecessary or wasted expense.
6. In regard to the pre-application advice, any informal advice provided before an application is made, is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all relevant factors. On the basis of the information, I have no firm evidence to conclude that the informal advice given by the Council amounts to unreasonable behaviour on their part.

7. In terms of the informative attached to the Decision Notice referring to the Council having worked with the applicant in a positive and proactive manner, I can appreciate that, in certain circumstances, such a statement could be regarded as disingenuous. However, from the evidence before me, the Council appear to have engaged with the appellant during the pre-application process and, whilst they sought no changes during the determination of the application, there is no requirement upon them to do so, especially if they had an in principle objection to the scheme.
8. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Adrian Hunter

INSPECTOR