



Costs Decision

Site visit made on 23 July 2021

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2021

Costs application in relation to Appeal Ref: APP/D1265/W/21/3273862 15 Cranford Avenue, Weymouth DT4 7TL

- 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 AJ Developments for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for sever land and erect 3 no 3 bedroom houses with undercroft parking.
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Decision

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

Reasons

2. The Planning Practice Guidance¹ (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG identifies different types of behaviours which may give rise to a substantive or procedural award against local planning authorities.
3. The applicant is of the view that the proposed development was of a straightforward nature, and therefore considers that the Council acted unreasonably by taking considerably longer than the prescribed eight week period to determine the planning application. Furthermore, it is argued that significant expenses were engaged to address the concerns raised by a number of consultees, following positive feedback expressed by the Council's Case Officer.
4. The Council has explained that there were unresolved issues which prevented the application from being determined within the statutory period. Whilst this may be true and the applicant was provided the opportunity to address these issues, it took the Council considerably longer to determine the planning application. The applicant's submissions clearly show that he sought regular updates during the course of the planning application, and the Council's rebuttal only provide partial explanations for the delay. The Covid-19 pandemic cannot alone justify the delay for the determination of the application.
5. Being left unable to appeal against the Council's failure to determine the application, the delay would have undoubtedly caused the applicant uncertainty for a prolonged period of time. This does not accord with the approach set out in the PPG² advising that where it is clear that the local planning authority will

¹ Paragraph: 030 Reference ID: 16-030-20140306.

² Paragraph: 048 Reference ID: 16-048-20140306.

fail to determine an application within the time limits, it should give the applicant a proper explanation.

6. That said, the PPG also states that where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.
7. Moreover, it is of note that the Council replied to the updates sought by the applicant, who was also advised that the application would be recommended for refusal, prior to its determination. The opinion which may have been expressed by the Case Officer in favour of the development during the application process is not ultimately binding upon the Council's decision or the ability for the officers responsible for the decision to take an opposing view.
8. Having regard to the available evidence, it seems likely that planning permission would have been refused, even if the Council had determined the application within the statutory time limits. There is nothing before me suggesting that a swifter decision by the Council would have prevented the submission of the appeal. Therefore, and whilst the whole process would have been lengthy, costly in time and understandably frustrating for the applicant, it has not been demonstrated that this has directly led to wasted or unnecessary expense in pursuing the appeal.
9. Given the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. On this basis, an award of costs is not justified.

S Edwards

INSPECTOR