The Planning Inspectorate

Costs Decision

Site visit made on 21 September 2021

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2021

Costs application in relation to Appeal Ref: APP/H4315/W/21/3278623
49 Church Road, Rainford WA11 8EZ

- 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 Helen Harry for a full award of costs against St Helens Metropolitan Borough Council.
- The appeal is against a refusal to grant planning permission.

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) 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. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Parties in the appeal process are normally expected to meet their own expenses.

3. The Council made its decision a day after the 8-week statutory period. Timely decision-making is crucial to a planning system that operates with confidence, and whilst decisions can be made earlier than the 8-week period, equally there may be valid reasons why this is not possible, and Council's do have the right to consider proposals during the full time period. It is unfortunate that the statutory period was not adhered to, but the Guidance is clear that awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission. In any event, there is no clear link between the minor delay experienced and unnecessary or wasted expense that the applicant has incurred over and above what would typically be expected.

4. Local planning authorities are encouraged to engage and communicate with applicants and vice versa. In this regard, the Council should have shared their concerns earlier especially as the Conservation Area Officer's comments were dated 22 April. I am mindful that planning officers do not always agree with the comments on a consultee, but there is no indication that this is the case here. Earlier engagement by the Council on this matter may well have enabled a solution to have been found but it would have at least provided the applicant a more reasonable period of time to respond to the Council's concerns especially given the condition of the windows and doors before the recent repairs.

5. I sympathise with the stress which this appears to have caused to the applicant. Be as that may, the Guidance explains that costs can only be awarded in relation to unnecessary or wasted expense at appeal. Having regard to the timetable for the appeal, the Council has broadly met the various submission dates and responded, were necessary, to requests for further information. As such, the applicant has not incurred unnecessary or wasted expense in the appeal process beyond what is expected from parties in preparing full and detailed evidence to support their case.

6. That said, the applicant is entitled, should they wish, to raise their experience of the service provided by the Council. Initially this should be through the Council's formal complaint process. It would be a matter for the Council to consider whether a refund of the planning application fee is warranted as this fee does not relate to the appeal process. If the applicant remains unhappy with the Council's reply, there is a further step available to her.

7. The cost of the Ordnance Survey map is an expense that has not been caused by the Council's behaviour. It is a routine expense incurred by applicants as part of providing the necessary documentation for a planning application.

8. I see that the applicant incurred expense to make the replacement window for the porch after the date when the Council refused planning permission and the Conservation Officer's comments were shared. Given that the Council had determined the application, the decision to proceed with the purchase of the window was the applicant's risk to bear even if they disagreed with the Council's view as they are entitled to do. The applicant's view on the Council's handling of the planning application and the timeliness of communications among other things do not alter my view on this.

Conclusion

9. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Andrew McGlone

INSPECTOR