



Costs Decision

Site visit made on 10 November 2021

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Costs application in relation to Appeal Ref: APP/D5120/W/21/3271873 281 Broadway, Bexleyheath, DA6 8DG

- 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 was made by H and F Finance Ltd for a full award of costs against the Council of the London Borough of Bexley.
 - The appeal was against the failure to give notice within the prescribed period of a decision on an application for planning permission for demolition of 281 Broadway and warehouse to the rear and erection of a part three/four-storey building comprising a commercial unit for Class E use or a tattoo studio (*sui generis*) fronting Broadway and 9 apartments (4 No. studios, 1 No. 1-bed, 3 No. 2-bed, 1 No. 3-bed) with associated amenity space and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance: Appeals (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 application for costs is made on a procedural basis as the Council did not determine the application within the statutory period. The PPG states that if an appeal in such cases is allowed there is a risk of an award of costs if there were no substantive reasons to justify delaying the determination, and better communication with the applicant would have enabled the appeal to be avoided.
 4. The appeal was lodged on the basis of failure to determine the planning application, as provided for in legislation. The Council's Statement at the appeal stage set out the grounds upon which they would have refused the application. I concurred with most matters set out by the Council and the appeal was dismissed.
 5. I agree the Council appeared unhelpfully silent on providing any updates to the applicant during the course of the application, with the first contact seemingly only at the end of the statutory period. However, it is clear to me from subsequent correspondence and, of course, the Council's submissions at the appeal, that there was very little prospect of the application being approved by
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the Council. I further agree with the Council that the shortcomings of the scheme as seen by the Planning Officer during the application stage were of such significance that the submission of further information or amendments to an on-going application were not going to lead to an application that could be approved. This includes the late notification of the objection on archaeological matters; even if that had been established at the application stage it is evident the application would still not have been approved.

6. Thus, even though the Council were slow in appraising the application, it is clear to me that an appeal was necessary if the applicant wished to pursue the submitted scheme. Thus, the costs of an appeal were not unnecessary or wasted.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

C J Leigh

INSPECTOR