
Costs Decision

Site visit made on 19 October 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 22 December 2021

Costs application in relation to Appeal Ref: APP/G4240/W/21/3277156 Land at Stamford Road, Mossley OL5 0BG

- 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 Wickens Estates Ltd for a full award of costs against Tameside Metropolitan Borough Council.
 - The appeal was against a failure to give notice within a prescribed period of a decision of an application for planning permission for a proposed development described as 'Construction of 2 number 4 Bedroom Town Houses 2 number 2 bedroom town houses and 12 apartment Resubmission of Application 20/00463/FUL.'
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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 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 was not determined by the Council. The PPG stipulates that, if it is clear the LPA will fail to determine an application within the time limits, it should give the applicant a proper explanation. Additionally, in any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit.
4. Notwithstanding this, I am also mindful that the PPG sets out that applicants should first consider engaging with the local planning authority to establish when an application might be decided, before deciding whether to appeal against non-determination.
5. On the basis of the evidence before me I am satisfied that the Council's validation acknowledgement letter gave the applicant a proper explanation of potential delays that might occur in the determination of the planning application as a result of the coronavirus pandemic. These, and other reasons were also adequately explained in its rebuttal.
6. Whilst I appreciate the applicant's frustrations regarding attempted unanswered phone calls, there is little evidence before me to demonstrate that these or any other communication took place between them and the Council to discuss the application or establish when the decision would be made.

7. Moreover, given the clear divergence in the cases of the two main parties, which formed some of the reasons for refusing the previous planning application (Ref:20/00463/FUL), it is unlikely that these matters could have been resolved through discussions or minor amendments. Whilst the Council's communication might have been improved, the outcome is unlikely to have been altered and so the applicant has not been put to unnecessary expense in the appeal process.
8. As such I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs is not justified.

Mark Caine

INSPECTOR