



Costs Decision

Site visit made on 21 March 2022

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2022

Costs application in relation to Appeal Ref: APP/ P4605/W/21/3281188 Rear of Petersbourne Court, Petersfield Road, Hall Green, Birmingham B28 0AS

- 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 Mr Thahar Sardar for a full award of costs against Birmingham City Council.
 - The appeal was against the refusal of planning permission for 'change of use and extend (residential)'.
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Decision

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

Reasons

2. Planning Practice Guidance (the Guidance) 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 expense in the appeal process.
3. The applicant's grounds for costs relate to delays which have resulted, amongst other things, in abortive building works and administrative costs. In response, the Council asserts that the fact the applicant has come to a different view on the merits of the proposal is not grounds for costs; and that it has behaved reasonably at all times and with due process and timescales in handling the application.
4. The Guidance indicates that a local planning authority is likely to be at risk of an award of costs where, for example, they delay providing information or fail to adhere to deadlines. It is an accepted principle that parties in planning appeals normally meet their own expenses. An award of costs does not extend to indirect losses.
5. Based on the evidence before me, the Council did not delay in making their decision on the application, which was determined well within the required statutory time period from the date that it was validated. Moreover, I understand that the Council provided the applicant with pre-application advice prior to submission of the planning application. Although I do not have the full details of that advice before me, it nevertheless indicates a willingness on the part of both parties to engage in the planning process at an early stage to ensure a timely decision on any subsequent planning application and avoid unnecessary delays and costs.

6. Each of the Council's reasons for refusing the application are set clearly out in the decision notice and substantiated in the officer report and statement of case. I have reached the same decision as the Council regarding the merits of the proposal. That does not vindicate any procedure or reasoning on their part. However, it establishes that it is not the case that planning permission should clearly have been granted; the Council's decision stands scrutiny relative to the statutory approach to decision-taking. The dispute was a matter of planning judgement, rather than the applicant being forced into an appeal by consequence of unreasonable behaviour or delays in determining the application on the part of the Council.
7. It therefore 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

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. The evidence does not justify either a full or partial award of costs. The application for an award of costs is refused.

M Ollerenshaw

INSPECTOR