



Costs Decision

Site visit made on 22 March 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2022

Costs application in relation to Appeal Ref: APP/B5480/W/21/3284443 36 Glebe Road, Rainham RM13 9LH

- 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. & Mrs. Jit & Surinder Ghir for a full award of costs against the Council of the London Borough of Havering.
 - The appeal was against the failure to give notice within the prescribed period of a decision on a planning application for the change of use from 6 person HMO (use Class C4) to 9 person HMO (sui generis).
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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 applicants claim that the Council, in failing to determine the application, has necessitated this appeal which in turn has incurred unnecessary and wasted expense for them.
4. The PPG¹ advises that if a Council fails to determine an application within the time limits, it should give the applicant a proper explanation. In any appeal against non-determination, the Council should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period.
5. The Council has acknowledged the delay in determining the application and apologised for it. The application was submitted at the beginning of March 2020 and therefore was directly caught up in the unexpected situation caused by the coronavirus pandemic. The Council do not fully explain the depth of the difficulties this caused in terms of changes to procedures such as working from home or staff being off with the virus, but it is not unreasonable for the statutory timescale to have been missed in such a situation.
6. Even though the case officer left the Council, it is less understandable why, after 6 months, it was not possible to provide the applicants with a timescale

¹ Paragraph: 048 Reference ID: 16-048-20140306

for a decision. I have nothing before me to suggest that the applicant chased the Council for an update in the interim, but neither that nor the retrospective nature of the application detracts from the application's significant lack of progress during that time. However, it was open to the applicant to submit an appeal against non-determination much earlier than they did. That they chose not to was entirely their right.

7. As part of the appeal the Council has provided a number of grounds on which they set out why permission would not have been granted had the application been determined within the relevant period. I have come to different conclusions to the Council on a number of these grounds but have found the scheme to be contrary, in part, to Policy 8 of the Havering Local Plan.
8. I am therefore satisfied that even if the Council had made their decision within the statutory timescale, the application would have been refused and an appeal would have resulted. Therefore, putting aside the retrospective nature of the application, I do not find that the delays in the Council determining the application prevented or delayed a development which should clearly have been permitted.
9. Taking the above into account, I am satisfied that the Council's decision stands up to scrutiny. It is the right, and indeed choice, of any applicant whether and when to appeal a decision and take on the costs that it involves.
10. Therefore, I find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated and that an award of costs is not justified in this case.

Stewart Glassar

INSPECTOR