
Costs Decision

Site visit made on 15 March 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 MAY 2022

Costs application in relation to Appeal Ref: APP/D5120/W/21/3280309 28 Standard Road, Bexleyheath DA6 8DP

- 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 Remish for a full award of costs against the Council of the London Borough of Bexley.
 - The appeal was against the refusal of planning permission for the demolition of existing building office Class E and erection of 4 no self-contained flats Class C3 consisting of 2 no 2 – bed flats and 2 no 1 bed flats. Roof extension including 2 no, rear dormer windows, front rooflights, including addition of balconies at the first-floor level.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. Unreasonable behaviour can be considered as either substantive or procedural in nature.
3. The applicant considers that the Council behaved unreasonably because of a 5-month delay incurred during the Council's decision-making process. As a result, the applicant has paid a delay charge to their appointed builder as well as the cost of agent fees in preparing and submitting the appeal.
4. It is accepted by the Council that the application was not determined within the statutory time frame and therefore, it falls to determine if the Council behaved unreasonably during its consideration of the planning application. The PPG states that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
5. There are reasonable explanations as to why planning applications may not meet their statutory time limits, and this can be part of normal planning procedures. However, I have not been provided with any further evidence from either party as to why or how the delays occurred. In addition, I have not been furnished with a detailed explanation, from the applicant, clearly demonstrating why or how the Council acted unreasonably on this occasion.
6. Delays in decision making have the potential to be unhelpful. However, from the evidence before me, the applicant's choice to hire a builder with a fixed

date for commencement without first securing planning permission was not a mandatory requirement made by the Council. The decision to take this risk was undertaken by the applicant without influence by the Council. I am also mindful that the PPG states that awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.

7. I also note the content of the Council's Decision Notice and Delegated Report. Without contrary evidence, the Council's position in respect of the scheme is therefore a matter of planning judgement and is fairly substantiated.
8. I therefore find, in this case, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is not therefore justified.

N Praine

INSPECTOR