
Costs Decision

Site visit made on 27 April 2022

by M Clowes BA (Hons) MCD PG CERT (Arch con) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 May 2022

Costs application in relation to Appeal Ref: APP/F4410/W/21/3286257 2 Rectory Gardens, Wheatley, Doncaster DN1 2JU

- The application is made under the Town & 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 Andrew Muscroft-Gosden for a full award of costs against Doncaster Metropolitan Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for a development originally described as 'erection of two storey rear/side extension and associated works to include patio path and driveway re-paving, reinstatement of boundary fence/railings.'
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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 applicant's costs claim is made on the grounds of the failure of the Council to decide the planning application within the required timeframe; the inability to secure and protect the appeal site; not having regard to the precedent of similar, or the same, development in the area; and a failure to respond to queries in full, a lack of engagement and not undertaking a site visit.
4. The PPG states that if it is clear that the Local Planning Authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. The Council communicated with the applicant on several occasions providing advice and a definitive deadline by which to provide additional information considered necessary to determine the application. The applicant chose to submit the appeal the day before the Council's deadline for the receipt of the additional information. As a result, I do not find unreasonable behaviour on the part of the Council.
5. Whilst appreciating the applicant's safety concerns, the determination of the planning application did not preclude the applicant from securing the site. The previous Inspector in issuing a split decision (appeal reference 3249282) on the 21 July 2020, granted consent for the installation of railings to the perimeter of the site where it adjoins Rectory Gardens and Thorne Road. Subject to

compliance with the conditions of this approval, these works could have been implemented and the permission remains extant until 21 July 2023. Although further permission may have been required for the erection of a boundary fence, a suitable solution may have been found had the applicant engaged with the Council. I do not find unreasonable behaviour on the part of the Council in this regard.

6. Regarding precedents, the applicant suggests that the Council have allowed several similar and, in some cases identical developments, in surrounding Conservation Areas. The applicant does not identify which element of the development; the extension, the boundary treatments or the paving, they are referring to. Irrespective of this, neither I, nor the Council, have been furnished with details of the developments considered to be precedents. With no information to compare, I cannot find unreasonable behaviour on this ground.
7. With regard to responding to queries and engagement, the Council has provided a clear record and timeline of the communication they initiated with the applicant in respect of the planning application on several occasions. Whilst the applicant disputes this, no counter evidence has been provided to demonstrate that the Council's position is incorrect. By the applicant's own admission, he chose not to respond to the Council, judging that no comment was required. The email from the applicant's former agent further suggests a lack of co-operation on the part of the applicant, rather than the Council.
8. The Council confirms that a site visit was undertaken but that the case officer did not enter the site. Whilst an assessment from within the site would have been beneficial to fully understand the relationship of the proposed extension with the neighbouring property of 4 Rectory Gardens, the site can be viewed from public vantage points within Thorne Road and Rectory Gardens. These matters do not amount to unreasonable behaviour on the part of the Council but instead, highlight the clear difference of opinion between the parties, in respect of the planning merits of the proposal.
9. 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.

M Clowes

INSPECTOR