



Costs Decision

Site visit made on 11 March 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2022

Costs application in relation to Appeal Ref: APP/Y3615/W/21/3284024 Garages, Land to the Rear of Bishopsmead Parade, East Horsley KT24 6DH

- 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 and Mrs Little for a full award of costs against Guildford Borough Council.
 - The appeal was against a failure to give notice within the prescribed period of a decision on an application for 'Removal of 13 existing purpose built garages. Replace with erection of terrace of three dwellings and associated parking. Construction of refuse and cycle store.'
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Decision

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

Reasons

2. The Planning Practice Guidance 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 for costs is made on the basis that the Council was unreasonable in failing to determine the application, such that the applicant was put to the cost of lodging an appeal against non-determination.
4. Paragraph 47 of the Planning Practice Guidance (PPG) sets out examples of unreasonable behaviour which may give rise to a procedural award of costs, including a lack of co-operation with the other party or parties and failure to adhere to deadlines.
5. Paragraph 48 of 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. In any appeal against non-determination, the local planning authority 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'
6. In this case the application was submitted on 9 October 2020 with an initial target decision date of 4 December 2020, later extended by agreement between the parties until 8 January 2021. The evidence indicates that the Council communicated that the application would have to be determined by the Planning Committee, thus provided a reason for not reaching a decision within this initial timeframe.

7. However, from this date there was limited communication from the Council, except for notification of change in Case Officer and a standard holding letter. I have no strong evidence before me to refute the applicant's assertions that no further reason was given for the delay during this time.
8. A further extension was then agreed between the parties until 28 September 2021. After the expiration of this deadline the Council advised the applicant that it had not been met due to part time working and the volume of casework. Despite further assurances by the Council that the Officer Report was imminent, the applicant submitted its appeal.
9. I accept that the Council did not determine the application within the prescribed period and that communication was at times sporadic, with deadlines missed. However, even if this was to amount to unreasonable behaviour I do not consider that it led to wasted expense on the part of the applicant. Prior to the submission of the appeal the Council had indicated that its current position was to refuse the application. As such, even if the application had been determined by the Council, it is likely that an appeal would have been an inevitable outcome. The applicant, in choosing to submit the appeal citing non-determination, did not therefore incur any additional expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For the reasons given above, I refuse the application for an award of costs.

C Rafferty

INSPECTOR