



Costs Decision

Site visit made on 1 August 2022

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022.

Costs application in relation to Appeal Ref: APP/K0235/W/22/3291582 62 Folkes Road Wootton Bedford MK43 9BX

- 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 Dr Giamal Sager for a full award of costs against Bedford 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 the relocation of fence.
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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 appellant's basis for the claim for costs is that the Local Planning Authority has provided contradictory advice; failed to treat his application fairly and did not determine the application within statutory timescales.
4. The pre-application advice sought by the appellant was (amongst other things) for a low wall, with no indication of the height, length or location provided.
5. I have considered the pre-app advice provided by the council which did focus on what could be implemented under permitted development. This advice made it clear that a 'means of enclosure' would need to be no more than 1m high, when adjacent to the highway.
6. The council then went on to set out that a wall/fence could go up to a maximum of 2 metres above the ground level, using an example of 'around your back garden' as an example (somewhat confusingly). However, this was qualified by the fact that such a 2m wall/fence could not border the highway. This may have been misinterpreted by the appellant as the proposed fence is 2m high, but for the reasons given (linked the fact that it is adjacent to a highway) the appeal has been dismissed due, in part, to highway safety impacts.
7. The appellant subsequently applied for permission for a higher fence (2m) than was originally requested in their pre-application enquiry to the council. I therefore do not consider there is consistency in what the appellant requested

in terms of pre-application advice and their subsequent application. I do not agree that the council were unfair in their consideration of the application.

8. I note that the council did not issue a decision within the 8 week determination period and that the appellant submitted an appeal on the grounds of non-determination a week after that deadline, as was his right.
9. The council set out that they had suffered some delays in issuing decisions due to staffing problems stemming from the Covid pandemic. Whilst I have some sympathy with the appellant and his desire to receive a timely decision on his application, I do not consider a delay of around a week constitutes unreasonable behaviour in this case.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Sian Griffiths

INSPECTOR