



Costs Decision

Site visit made on 21 September 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date 07 OCTOBER 2022

Costs application in relation to APP/P3610/W/21/3287181 324 Kingston Road, Ewell KT19 0SU

- The application is made under the Town and Country Planning Act 1990 (the Act), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Andy Marley for a full award of costs against Epsom and Ewell 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 demolition of existing dwelling and garage and erection of a two-storey building (with loft accommodation) comprising 7 flat units and associated parking.
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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 has identified the grounds for their costs application as being the lack of a timely decision within the prescribed time frame. As a result, the applicant appealed against non-determination of the application by the Council. This costs application relates to the costs incurred due to the appeal process.
4. I note the delays and as a result both the applicant and the Council agreed to an extension of time, however, no decision was made by the expiry of the new deadline. The Council have also acknowledged that it failed to determine the application within the statutory time frame. The Council state that this was due to a change in Officer following the departure of the original Officer from the Council and existing high caseloads.
5. The Council also provided a statement of case (SOC), at the appeal stage, confirming if it had determined the application, it would have refused it. Reasons were also set out in its SOC which have sufficient detail within them, including direct references to relevant development plan policies. The applicant also engaged in pre-application advice and was also given guidance from the Council prior to the submission of the application.

6. I have considered the points raised by both parties regarding this application and it is evident to me that there have been difficulties experienced by both parties during the application process. Whilst the Council has not met its procedural requirements in terms of determining the planning application within the statutory time period, it did agree an extension of time with the applicant. This confirms there was contact and dialogue between the case officer and the applicant during the processing of the application. Additionally, the Council has set out the circumstances in this case were caused as the original Officer left the Council in combination with high workloads.

Conclusion

7. As a result, having carefully considered the above, I find that the Council has not acted unreasonably in its failure to meet procedural requirements. Nor has it failed to provide a clear and justified statement of its reasons if it had refused the application. Accordingly, I conclude that unreasonable behaviour by the Council, as described in the Guidance, has not been clearly demonstrated. Therefore, in my view, unnecessary or wasted expense has not been incurred by the appellant. Consequently, the application for a full award of costs is refused.

N Praine

INSPECTOR