



Costs Decision

Site visit made on 17 October 2022

by J Symmons BSc (Hons) CEng MICE

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

Decision date: 18 November 2022

Costs application in relation to Appeal Ref: APP/N4720/W/22/3304719 8 Shadwell Park Close, Shadwell, Leeds LS17 8TN

- 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 Nicholas Warner for a partial award of costs against Leeds City 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 side and rear extension at first floor level over existing extension to detached dwelling house.
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Decision

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

Reasons

2. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant's case sets out that they seek an award of costs on the basis that the Council has failed to determine the application in a reasonable time, did not register and upload additional details submitted by the agent onto the planning public access system and did not respond in a reasonable time to messages. Due to these, the applicant considers that the Council failed to act in good faith and has, consequently prejudiced their interests resulting in them incurring the additional costs associated with the preparation of an appeal for non-determination.
4. The Council highlights that the reasons for the delay relate to increased case load and resourcing issues, including impacts from COVID. It provides a report which sets out its protocols to improve the service. It acknowledges that it did not issue a refusal of planning permission in accordance with the protocols, but this was because the case officer had entered into initial negotiations with the applicant. The Council did inform the applicant that it was going to refuse the application during determination. It also advises that it considers the additional details issued were for discussion purposes rather than for publication on the planning public access system. In relation to responses to messages left, the

Council indicate that it cannot verify these due to its switchboard system not allowing tracking of particular extensions.

5. It is apparent that the standard of service provided by the Council was below the level expected, and no formal planning decision was issued. However, it is evident that the Council did identify that it was going to refuse the application and in its Statement of Case it clearly set out its consideration of the planning merits and substantiate the reasons for its refusal.
6. On the above basis and having regard to paragraph 048 and 049 of the PPG, the Council has explained 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. Therefore, even if they had made their decision within the determination period it would not have prevented the need for the appeal. Furthermore, my dismissal of the appeal also demonstrates that the Council's behaviour has not prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
7. For the reasons set out above I conclude that, the applicant has not shown that the Council has behaved unreasonably and that no wasted or unnecessary expense has been incurred by the applicant in the appeal process. I conclude therefore, that the application for an award of costs should be refused.

J Symmons

INSPECTOR