



Costs Decisions

Site visit made on 8 November 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Costs applications in relation to:

Appeal A Ref: APP/A3655/W/22/3296863

Appeal B Ref: APP/A3655/W/22/3296859

Foxcote, Blackhorse Road, Brookwood, Woking GU22 0QT

- 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 Szigeti against Woking Borough Council.
 - These appeals were against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a single storey timber and double glazed garden room to side of property following demolition of existing side conservatory. Removal of single storey side store and front bay window. Without complying with a condition attached to planning permission Ref PLAN/2021/0293 (Appeal A), and the demolition of any existing buildings, the execution of site works and the erection of a detached house with detached double garage. Without complying with a condition attached to planning permission Ref 79/1243 (Appeal B).
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Decision

1. The applications for an award of costs are 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 and the Council's failure to submit a Statement of Case (SOC). The applicant appealed against non-determination of the application and feels disadvantaged particularly as, in their opinion, they had no right of response to the Council's case.
4. I note that Woking Borough Council made its decisions in respect of application reference PLAN/2022/0055 (Appeal A) on 27 April 2022 and PLAN/2022/0054 (Appeal B) on 6 May 2022. There is no evidence before me that the applicant did not have sight of these decision notices and delegated reports once these decisions were made. Particularly as the Council confirmed, as part of its appeal questionnaire, that it had forwarded these documents to the applicant on the 14 July 2022 and also made these documents available on its website.

5. While these decisions were made after the date the applicant lodged their appeal, I note both the Council's decisions were before the appeal start dates of 6 July 2022 (Appeal A) and 21 May 2022 (Appeal B). The applicant was invited to make final comments after these dates by the 24 August 2022.
6. While the Council did not issue a SOC it did provide a decision notice and delegated report at the appeal stage. These confirmed that if it had determined the application, it would have refused it. Reasons were also given in these documents which have sufficient detail within them, including direct references to relevant development plan policies. As set out above, the applicant would have seen these and had opportunity to reply as part of their final comments. I therefore do not consider that the Council has acted unreasonably in this regard.
7. Paragraph 48 of the PPG sets out when a local planning authority's handling of the application may lead to an award of costs, specifically in relation to non-determination applications. In an appeal of this nature the Council should explain their reasons for not reaching a decision and why permission would not have been granted had they determined the application in a timely manner.
8. The Council has confirmed that while the determination of the applications exceeded the national targets, the decisions fell within 26 weeks and therefore in compliance with the Planning Guarantee. On this basis I am satisfied that a decision was made in a timely manner and reasons were given why permission would not have been granted.

Conclusion

9. As a result, having carefully considered the above, I find that the Council has not acted unreasonably. 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