



Costs Decision

Site visit made on 15 December 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Costs application in relation to Appeal Ref: APP/W2465/W/22/3290837 88 Tudor Road, Leicester LE3 5HT

- 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 R Patel for a full award of costs against Leicester City Council.
 - The appeal was against the failure to give notice within the prescribed period of a decision on an application for planning permission for the change of use and conversion of building from mixed use warehouse (Use Class B8) and residential (Use Class C3) to student accommodation in the form of seven (7x) studios (Sui Generis); and proposed external alterations.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 048 of the Planning Practice Guidance (PPG) sets out scenarios when a local planning authority's handling of the planning application prior to the appeal may lead to an award of costs. It states that 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 prescribed period.
4. Based on the evidence before me, the planning application was submitted to the Council on 16 September 2021. The applicant indicates that the Council confirmed the valid date of the application as 26 October 2021.
5. The applicant has provided correspondence between their agent and the Council including e-mail exchanges during the determination period. I sympathise with the frustration of the applicant that communication between the parties appeared to stop at a certain point in time and the Council failed to issue a decision. However, they have substantively explained their reasons for not making a decision and why permission would not have been granted.

6. At the time of the application the Enforcement Notice had not been complied with and the planning application, as submitted, did not remedy the matter. Whilst I note that the applicant suggested a means of resolution, it is within the gift of the Council to determine whether what was suggested is appropriate. In other words, this is a matter of planning judgement. In my view, this does not amount to unreasonable behaviour.
7. It appears to me both parties reached an impasse, however, based on the information before me other options were available to the applicant, as indicated by the Council. In this circumstance the applicant decided to pursue the appeal against the non-determination of the application, with the Council's position clearly outlined. To this end the costs of an appeal cannot be considered an unnecessary or wasted expense.
8. I note that the applicant has made reference to applications across the country not being determined within the prescribed period. However, it is not for me to comment on such matters. I have considered this appeal and application for costs on their own merits.
9. Having regard to the above, I consider that unreasonable behaviour of the Council resulting in unnecessary and wasted expense in the appeal process for the applicant, as described in the PPG, has not been demonstrated.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason an award of costs is not justified.

B Thandi

INSPECTOR