



Costs Decision

Site visit made on 21 December 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Costs application in relation to APP/Z4310/W/22/3305094 Mossley Manor Care Home, North Mossley Hill Road, Liverpool L18 8BL

- 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 Leo Rowland Limited for a full award of costs against Liverpool City Council.
 - The appeal was against the failure to give notice within the prescribed period of a decision on an outline planning application (with means of access, layout and scale considered) and appearance and landscaping reserved, for demolition of existing building and the erection of 9 no. detached residential units and works required to facilitate the proposed development.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. It sets out examples of unreasonable behaviour which may give rise to a procedural award of costs, including a failure to adhere to deadlines and states that, 'if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation'
3. In this case, an application was submitted and validated on 16 June 2022. This application was not determined by the Council by the deadline of 11 August 2022, with no prior explanation to the applicant that this would be the case and no reason given for why any delay would be likely to occur. The applicant therefore submitted the appeal on 12 August 2022 and alleges that, in having to do so, it has incurred wasted expense.
4. I note the Council cites pre-application discussions with the applicant during which it relayed that a proposal which involved the demolition of Mossley Manor was unlikely to be acceptable. It further stated that due to the likely heritage related impacts of any such demolition, an outline application would not be appropriate as the full details of any redevelopment of the site would be required. The Council therefore alleges that the applicant would have been aware at submission that the application was unacceptable.
5. However, it remains that the Council did not engage with the applicant following submission of the appeal, and did not give any explanation during this time for a likely delay in the determination of the application. Nevertheless, even if this were

to amount to unreasonable behaviour, I do not consider that this led to wasted expense on the part of the applicant.

6. The Council has since stated that it would have refused the application, citing the likely grounds as the impact of the proposal on the character and appearance of the area, having regard to the effect on the Mossley Manor non-designated heritage asset and the character and appearance of the Mossley Hill Conservation Area, in addition to the effect on trees. It further finds the proposal caused a level of harm to the living conditions of residents of surrounding properties and future residents of the proposal, albeit that this did not form part of one of its recommended reasons for refusal. These reasons have been substantiated with reference to local and national policy and relate to the planning merits of the proposal.
7. As such, even if the application had been determined by the Council in the initial timeframe, it is reasonably likely that the application still would have been refused for the above reasons. Accordingly, an appeal would have been a likely outcome and the applicant, in choosing to submit the appeal citing non-determination, did not therefore incur any additional expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For the reasons given above, I refuse the application for an award of costs.

C Rafferty

INSPECTOR