



Costs Decision

Site visit made on 28 February 2023

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Costs application in relation to Appeal Ref: APP/P3040/W/22/3308006 Numbers 49 to 55, Trent Boulevard, West Bridgford NG2 5BB

- 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 Paul Buckingham for a full award of costs against Rushcliffe Borough Council.
 - The application Ref 21/02848/FUL, dated 19 October 2021, was refused by notice dated 27 May 2022.
 - The appeal was against a refusal to grant planning permission for the proposed development described as "demolition of existing bungalows and construct five apartments and two dwellings."
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantive matters (i.e. issues related to the planning merits of the appeal).
4. The applicant alleges that the Council acted unreasonably during the planning application stage. The applicant submitted their case in writing and therefore there is no need to repeat it in full.
5. Essentially the applicant is seeking a full award of costs due to the Council's validation and determination period of the application. The applicant feels this caused them unnecessary and/or wasted expense.
6. The applicant claims that the Council created a delay in validating and then determining the planning application and that the delay resulted in an unnecessary expense for the applicant. However, the Council has submitted evidence demonstrating that the delays in validation were partially caused by the applicant's inaccurate details on the application form and signing of the ownership certificate, and a delay in paying for the planning application fee. Therefore, the Council was not able to validate the application until these issues were resolved. Although there was some confusion as to whether a planning application fee was required, I do not find the Council to have behaved unreasonably during the validation of the application.

7. The application was not determined by the Council within the 8-week period and did not request an extension of time. Whilst I understand the applicant's frustration at the delays, I have seen no sufficiently compelling evidence that the Council behaved unreasonably in terms of the timescale for determining the planning application.
8. Furthermore, the Council refused the application and provided clear and detailed reasons why it did not grant permission. It is not therefore the case that the appeal could have been avoided and therefore the applicant has not incurred unnecessary expense. Moreover, I have found that the Council had reasonable concerns about the proposal in my findings on the appeal.
9. The Council exercised their planning judgement as decision maker and were entitled to come to the conclusions they did based on the adopted development plan for the area. Harm was identified to the character and appearance of the area and insufficient information regarding protected species. The Council has submitted sufficiently robust details to show that it did not apply its judgement in an unreasonable manner, in accordance with the advice in the PPG. Therefore, I find the Council to have acted reasonably in this regard.
10. The applicant makes reference to the Council's pre-application advice service not being available prior to the submission of the application. However, the Council claim that the pre-application advice service was available to the applicant prior to submitting the application, as the proposal was for a development over 5 dwellings. In any event, given the planning history for the site, the Council has engaged with the applicant on previous schemes and was in contact with the applicant via email and telephone during the application stage for Ref: 21/02848/FUL. Therefore, I find the Council to have acted reasonably in this regard.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is not therefore justified.

Helen Smith

INSPECTOR