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## Costs Decision

Site visit made on 2 May 2023

**by K Townend BSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> June 2023**

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### **Costs application in relation to Appeal Ref: APP/W4223/D/23/3316620 2 Jarvis Street, Oldham OL4 1DT**

- 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 Ms Nurgis Siddiq for a full award of costs against Oldham Metropolitan Borough Council.
  - The appeal was against the refusal of planning permission for a front dormer.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and, that the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary and wasted expense in the appeal process. Costs cannot be claimed for the period during the determination of the planning application. However, behaviour and actions at the time of the planning application can be taken into account in consideration of whether or not costs should be awarded.
3. Paragraph 047 of the PPG<sup>1</sup> indicates that local planning authorities will be at risk of a procedural award being made against them for reasons including delay in providing information or other failure to adhere to deadlines. Paragraph 049 of the PPG<sup>2</sup> indicates that local planning authorities will be at risk of a substantive award being made against them for, amongst other things, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant claims, in detail in the costs claim and rebuttal, that the Council acted unreasonably in delaying providing relevant documents to the Planning Inspectorate and in not following the pre-application advice given and approving the development.
5. I acknowledge that the Council did not submit the letters of support at the time of submitting their questionnaire. However, the Council have advised that the delay was as a result of technical difficulties and the documents were eventually provided. The delay has resulted in some degree of unreasonable

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<sup>1</sup> Paragraph: 047 Reference ID: 16-047-20140306

<sup>2</sup> Paragraph: 049 Reference ID: 16-049-20140306

behaviour on the part of the Council, but the Council have now provided all the documents and I have little evidence that the delay resulted in wasted expense for the appellant. It also did not delay my decision and the letters of support have been taken into account in my formal Decision.

6. With regard to the pre-application advice, informal advice given before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application. The Council is not duty bound to follow pre-application advice. However, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
7. Whilst I appreciate that the outcome of the application will have been a disappointment to the appellant, the Local Planning Authority were not unreasonable in coming to the decision to refuse, and indeed following consideration of the application on its merits alone, I have concurred with the Council. I find nothing to suggest that a decision was not reached on the basis of the merits of the proposal, as submitted by the applicant, and assessed against the Development Plan.
8. The additional costs incurred by the appellant, in regard to renting property, is not as a direct result of the delay of the Council providing the relevant documents. I, therefore, find no substantive evidence that the appellant incurred any additional expense as a result of this delay. That the appellant has sought to continue to build the front dormer without the benefit of planning permission, albeit with informal advice from officers, is not wasted expense in the appeal process and was done so entirely at their own risk.
9. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

*K Townsend*

INSPECTOR