



Costs Decision

Site visit made on 7 June 2023

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2023

Costs application in relation to Appeal Ref: APP/A0665/W/22/3307607 Land adj Greenwich House, 5 Sealand Road, Chester, Cheshire CH1 4LD

- 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 David Robson for a full award of costs against Cheshire West and Chester Council.
 - The appeal was against the refusal of planning permission for the development of 3 no. 2 bedroom houses with associated amenity space, parking and landscaping.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (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.
3. Unreasonable behaviour in the context of an application for award of costs may be either procedural, relating to the process: or substantive, relating to the issues arising from the merits of the appeal.
4. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded. Therefore, whilst I am prepared to consider the arguments submitted with regards to the appeal application, the procedures do not allow me to consider events relating to earlier submissions.
5. The applicant asserts that the Council has not been pro-active and when they have responded they have done so in a vague manner. He also alleges that the Council has delayed making a decision, and consistently moved the goalposts, resulting in the need for additional documentation. As far as matters relating to the appeal are concerned, he indicates that the Council has failed to rebut the arguments presented by him.
6. It is clear to me that there was significant contact between the parties during the consideration of the application. However, it seems to me that the engagement between the parties has not been as constructive or effective as it should have been. In particular, if the Council had met the applicant as part of the planning application process they could have explained their concerns better, and any questions the applicant had could have been clarified. That said, based on the evidence before me, and given the resources available to them, I consider that the Council has sought to respond to requests in a timely

manner, albeit I accept that they have not taken a lead role. Ultimately, it is for the applicant to interpret the advice provided and decide what course of action he wishes to take based on his understanding of the situation. This is a normal part of the planning process.

7. The Council accept that application took a lengthy period of time to determine. Whilst I recognise the importance of the Council providing an efficient and effective planning service, which does not unreasonably delay the issue of a decision, it is also necessary to ensure that they determine the application in accordance with the latest policy and guidance. This is particularly the case given the dynamic nature of planning. Moreover, it is reasonable to give the applicant an opportunity to make amendments where necessary. Consequently, as far as this matter is concerned, I do not consider the Council has acted unreasonably.
8. Matters relating to replacement trees and flood risk were well documented in the respective delegated reports and were issues that the applicant was conversant with. The Council set out their position with respect to these matters, which are clearly documented.
9. I accept that the Council may not have provided a rebuttal for all of the issues raised by the applicant. However, it is for each party to make their own case, focusing on the issues that they think are important.
10. Whilst I note that the applicant is aggrieved that the application was not determined by the Planning Committee, from the evidence before me, it appears that the Council has fulfilled their obligations with respect to their delegated powers.
11. In light of the above, I conclude that, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J Gunn

INSPECTOR