



Costs Decision

Site visit made on 23 May 2023

by G Robbie BA(Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Costs application in relation to Appeal C Ref: APP/G5180/W/22/3302013 54 Havelock Road, Bromley BR2 9NZ

- 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 Dave Simpson for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission for a replacement garage to end of garden.
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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 (the 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. Applications for an award of costs may be made on procedural or substantive grounds. The Guidance is clear in setting out the circumstances in which a local planning authority could be vulnerable to an award of costs against it. It also goes on to advise of the circumstances in which a local planning authority's handling of the planning application process prior to the appeal may lead to an award of costs.
4. The appeal to which this costs application relates arises from the Council's failure to determine an application for planning permission within the prescribed time period. Another application¹, in relation to an application for a lawful development certificate (LDC) at the same appeal site is also the subject of an appeal before me as a consequence of the Council's failure to determine that application within the prescribed time period.
5. Nevertheless, this application for an award of costs is made only in respect of appeal C. The appellant's frustration with the Council in terms of its responsiveness and timeliness to queries and correspondence is clearly set out. The Guidance states that if it is clear that an application will not be determined within the time limits the applicant should be provided with a proper explanation. However, no evidence has been submitted to demonstrate that the Council attempted to provide any such explanation.

¹ LPA Ref No: DC/22/01186/PLUD APP/G5180/X/22/3302011

6. I agree with the appellant that, on the face of it, it should be possible to determine an application for planning permission for a detached garage within 8 weeks. The Council's apparent failure to provide an explanation as to the reason for the delay has clearly added to the appellant's frustration. This, I conclude, amounts to unreasonable behaviour on the part of the local planning authority.
7. However, the Guidance is clear that costs may be awarded where a party has behaved unreasonably **and** *[my emphasis]* that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. It does not automatically follow that unreasonable behaviour directly causes unnecessary or wasted expense in the appeal process.
8. In this instance, the appellant's statement of appeal merely duplicates this application for an award of costs. It does not expend time or effort in setting out a substantive case for the construction of the proposed detached garage. Nor has there been anything to respond to on substantive terms, the Council confirming that they did not wish to contest this appeal. Nevertheless, whilst the Council's behaviour was unreasonable it has not been demonstrated that the appellant has incurred unnecessary or wasted expense in the appeal process, especially given that there are two other linked appeals at the appeal site.

Conclusion

9. Therefore, whilst I have concluded that the Council has behaved unreasonably it has not been demonstrated that unnecessary or wasted expense has resulted in this instance. An award of costs is not therefore warranted.

G Robbie

INSPECTOR