



Costs Decision

Site visit made on 14 June 2023

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2023

Costs application in relation to Appeal Ref: APP/R0660/W/23/3314049 Birtles Farmhouse, Hocker Lane, Over Alderley, Cheshire SK10 4SB

- 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 Haydar Fathulla for a full award of costs against Cheshire East Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the construction of a garage.
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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. In this case, the applicant asserts that the Council behaved unreasonably by failing to communicate about the application, and then not determining it, despite repeated requests to do so. The applicant's costs application indicates that, twenty-one months after the application was submitted, a decision had still not been made.
4. The Council has explained that the delay in determining the application was due to the circumstances of the recent pandemic and staff departures. As for many organisations, the Council has clearly been through a challenging period, but even so, the lack of communication and very significant delay in determining a relatively straightforward application for minor development, was understandably frustrating to the appellant.
5. The Council's handling of the application was less than satisfactory, but despite the lack of co-operation, it is evident from the applicant's comments that they were well aware of the Council's position. Even if the Council had been more engaged and had issued a decision notice, it seems highly likely that the application would have been refused on the basis of it being a disproportionate addition. The applicant understood this. Issuing a decision would not, therefore, have avoided the need for an appeal.
6. The applicant has asserted that, had a clear reason for refusal been provided by the Council, they may have taken the decision not to appeal, thus avoiding the associated expense. That may have been the case, but the appeal against

non-determination was made even though applicant was well aware of the Council's in-principle objection on Green Belt grounds. The applicant would have anticipated that this matter would have been central to any appeal, and indeed led to my dismissal of it. I therefore give this argument little weight.

7. I note the suggestion that an appeal against non-determination involves more work, because the Council's objections are not clearly set out, and the application is being considered afresh at appeal stage. However, in this case, the proposal is for small scale development, and the issues were limited in scope. Whilst I agree that it would have been helpful to have been provided with a decision and officer report by the Council, I am not persuaded that the lack of such details resulted in the need for significant extra work at appeal stage.
8. I conclude that unreasonable behaviour leading to unnecessary or wasted expense at the appeal stage has not been demonstrated. The application for costs is therefore refused.

R. Morgan

INSPECTOR