



Costs Decision

Site visit made on 19 June 2023

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 July 2023

Costs application in relation to Appeal Ref: APP/Z3825/W/22/3312292 Shaw Cottage, Blackstone Lane, Woodmancote BN5 9TA

- 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 Keith Toogood for a full award of costs against Horsham District 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 the demolition of an existing pre-fabricated concrete domestic garage and erection of a replacement incidental building.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Government's online Planning Practice Guidance ('the 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. The appellant has submitted an application for a full award of costs as part of the appeal documentation. Horsham District Council has twice been invited by the Planning Inspectorate to submit a rebuttal of the claim but has failed to respond. In these circumstances paragraph 038 ID:16-038-20140306 of the PPG applies and strengthens the appellant's case.
4. The decision to refuse permission for the proposal is a matter of planning judgement and in my view does not in itself warrant an award of costs for the expenses incurred in the appeal. As indicated in my Decision letter I agree with the Council's reservations in respect of a substantial two-storey building but consider that the Council has given too little weight to the planning history and physical context of Shaw Cottage and its grounds.
5. However, the application was dated 21 June 2022 and still had not been determined by 1 December 2022 when the appellant lodged his appeal – a period of almost six months for the partial but not complete processing of a householder application. Included in the delay was the Council's unlawful amendment of the application description without the appellant's agreement (albeit this is by no means an uncommon practice amongst Local Planning Authorities).

6. I recognise that there were some complications and confusion in terms of the inclusion of an application for Listed Building Consent, but this does not fully mitigate the Council's disregard of Government advice at PPG paragraph 048 ID:16-048-20140306, with particular reference to the need for better communication. This includes the applicant's allegation of the Council's procedural errors and unnecessary delays, which without a response to this costs application I am minded to accept as reliable and material evidence.
7. I acknowledge that in this case the appeal would still have been necessary because of the Council's view of the scheme's merits. However, the Council's failure to process the application in a timely manner has necessitated a longer and more complex appeal statement with a larger number of appendices than would otherwise have been the case. Furthermore, from all that I have read these failures appear to be systemic rather than due to a single individual.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Horsham District Council shall pay to Mr Keith Toogood, the costs of the appeal proceedings described in the heading of this decision, limited to those costs of the appeal relating to the Council's processing of the application and a failure to give a decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Horsham District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Martin Andrews

INSPECTOR