



Costs Decision

Site visit made on 15 May 2023

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2023

Costs application in relation to Appeal Ref: APP/P5870/W/22/3307367

1 Ingleby Way, Wallington, SM6 9LP

- 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 Rajinder Saini for a full award of costs against the Council of the London Borough of Sutton
 - 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 described as "demolition of existing store in garden; two storey side extension minimum 1m far from the boundary; one storey rear extension with flat roof and flat rooflights; loft conversion with velux and rear dormer; front extension with opened porch; internal alterations".
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Examples of unreasonable behaviour include preventing or delaying development which should be permitted and failure to produce evidence to substantiate reasons for refusal on appeal.
3. The applicant has applied for costs on the basis that he has had to appoint and pay architects for the appeal process as the Council had not made the decision on the planning application. It is contended that if the normal timeframe of 8 weeks had been adhered to and the application refused at that time, the applicant could have appealed then and would likely have had a decision by now. It is not specified whether the application is for a full or partial award of costs.
4. The Council indicates that the delay in determining the application was due to the applicant seeking to negotiate on it. This resulted in the submission of amended plans on 21 March 2022 and the removal of the Council's concerns relating to the potential impact of the proposal on biodiversity and a hedge. In the event that the application was to be recommended for approval, the Council states that the application would have had to be referred to committee due to the number of objections received which would have delayed the decision-making process due to the monthly planning committee cycle deadlines.

5. In its evidence to the appeal, the Council confirmed that it would have refused the application if it had determined it. Therefore, even if the Council had determined the application within the prescribed time, the appeal could not have been avoided. In its appeal submission, the Council set out the reason that it would have refused the application, with reference to the relevant development plan policies. As can be seen from my appeal decision, I have agreed with the Council's assessment and have dismissed the appeal, concluding that the reason given by the Council could be substantiated.
6. The applicant has indicated that an appeal would have been made if the planning application had been refused earlier and I note that the negotiations between the Council and the applicant resulted in the resolution of some issues which may also have been reasons for refusal. The applicant had the option to appeal against the non-determination of the planning application after 8 weeks had lapsed following the validation of the original application. As a result, the applicant has not incurred additional costs because of the delay by the Council in dealing with the application.
7. Costs awards relate to unreasonable behaviour in the appeal process which cause unnecessary or wasted expense. In this case, for the reasons set out above, I find that unreasonable behaviour, as described in the PPG, has not been demonstrated and the application for an award of costs must fail.

A Wright

INSPECTOR