



Costs Decision

Site visit made on 13 July 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2023

Costs application in relation to Appeal Ref: APP/R0660/W/22/3312486 Greenfields, Agden Park Lane, Lymm, Warrington WA13 0TS

- 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 Obyda Essam 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 Minor amendments to the proposals approved in application 20/5184M, including relocation of bedroom accommodation into a two-storey rear/side extension, the addition of a balcony, creation of garage accommodation and repositioning of utility room. Elevational amendments including changes to roof and porch configuration and amendments/addition/removal of roof windows, windows and doors'.
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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. The PPG makes clear that costs cannot be claimed for the period during the determination of the planning application although 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.
4. The applicant considers that the Council's failure to determine the planning application resulted in the need for the appeal and that this resulted in wasted expense through the costs required to produce and submit the appeal documentation.
5. I note the lengthy period of time from the submission of the planning application to the date the appeal was made. The applicant has suggested that in order to seek determination of the proposal, their only option was to submit an appeal. It was, however, open to the applicant to wait for the Council to make a decision in order to obtain a formal decision.
6. I nevertheless appreciate that the delays during the planning application process were no doubt frustrating for the applicant and that appeals against non-determination are there to address such circumstances in which the Council fail to make a decision.

7. Whilst the planning application took a considerable period, there is no conclusive evidence to suggest that the Council caused a deliberate delay. Indeed, I note that the Council communicated its concerns to the applicant during the course of the planning application, albeit this was over one year from the date the application was registered. Nonetheless, this correspondence set out the Council's concerns with the proposal and indicated that it could not support the application.
8. It is clear from the appeal submissions that there was a difference of opinion between the main parties with regard to the merits of the proposed development. I am therefore satisfied that even if the Council determined the application within the prescribed period, it is likely that the applicant would have nevertheless pursued an appeal.
9. Additionally, there is nothing to suggest that the change to the development plan between the submission of the planning application and the date the appeal was made valid would have resulted in a different assessment or outcome. Furthermore, the onus is on the applicant to be aware of up to date development plan policies relevant to their proposal, thus the lack of a decision notice and officer report has not resulted in additional expenses for the applicant over and above what would normally be expected when an application is refused.
10. Taking all the above into consideration, I conclude overall that it has not been demonstrated that the Council behaved unreasonably which resulted in unnecessary or wasted expense. The costs application should therefore fail and no award is made.

H Ellison
INSPECTOR