



Costs Decision

Site visit made on 19 July 2023

by N Duff BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 September 2023

Costs application in relation to Appeal Ref: APP/A4710/W/23/3316189 Land south of 7 to 17 Spark House Lane, Sowerby Bridge

- 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 and Mrs Stuart Allison for a full award of costs against Calderdale Metropolitan Borough 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 approval of details pursuant to condition No. 1 of an outline planning permission Ref 20/01339/OUT for Demolition of existing stable to facilitate a residential dwelling (Reserved Matters application pursuant to 20/01339/OUT).
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Decision

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

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 application for costs relies to a substantial extent on whether the Council has acted unreasonably by failing to issue a decision within the statutory time period and lack of dialogue from the Council regarding the planning application, which has resulted in preventing or delaying development which should clearly be permitted.
4. This application accompanies an appeal against the failure of the Council to determine the application within the statutory time period. The Council has commented regarding this and has referred to limited resources and a lack of capacity as the reason for not issuing a decision and for the lack of correspondence with the applicant. These reasons have resulted in the case being delayed leading to the appeal.
5. The Council has referred to the appeal for non-determination as standard procedure and has stated that the applicant could have appealed at any point following the end of the statutory time period for determination of the application. However, whilst an appeal against non-determination of an application is not uncommon, it is not standard procedure as the application is submitted to the Council for determination in the first instance, and in this case has resulted in additional time and expense which has delayed the proposed development.

6. Having regard to the additional plans submitted, evidence provided by the applicant shows that this was submitted to the Council during the course of the application. The applicant's evidence demonstrates the submission of all plans to the Council regarding the visibility splays, which were to overcome the highway officer concerns, whose comments were available to view on the Council's website and this is how they were obtained by the applicant.
7. The revised visibility splay plans were not considered until the appeal stage. Furthermore, the revised location plan showing the updated red line to incorporate the visibility splay does not appear to have been considered by the Council, as the Council commented in the appeal statement that it would extend over third-party land, and refers to the original location plan, not the revised location plan. Had the highways officer had access to all of the revised plans which were submitted to the Council at the time of the application and the application dealt with by the Council the need for an appeal would likely have been unnecessary.
8. Taking the above matters into consideration, I find that the Council by not acknowledging receipt of amended plans which would likely have overcome highway objections and was the only point of dispute between the parties combined with not engaging with the applicant during the application process has resulted in the wasted time and expense of lodging an appeal for the applicant.
9. For the reasons given above, a full award of costs is warranted.

Costs Order

10. 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 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Calderdale Metropolitan Borough Council shall pay to Mr and Mrs Stuart Allison the costs of the appeal proceedings described in the heading of this decision.
11. The applicant is now invited to submit to the 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.

N Duff

INSPECTOR