



Costs Decision

Site visit made on 18 July 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 8 September 2023

**Costs application in relation to Appeal Ref: APP/J1915/W/22/3309807
Land to the Front of Kemps Close, B1368 from its Junction with Hare
Street Road to start of Dassels Hill, Hare Street SG9 0DZ**

- 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 Mulberry Tree Developments Ltd for a full award of costs against East Hertfordshire 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 planning permission for the erection of 5 no. new dwellings (5 no. 3-bed terraced dwellings) with access, parking, and pedestrian pathway and associated works.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG states that awards may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal.
3. The appeal against which the costs claim has been made involved the failure of the Council to give notice within the prescribed period of a decision on the application for planning permission. The claim is made on procedural grounds.
4. The applicant's cost claim states that the Council acted unreasonably in the way that it determined the application, and that the Council did not work positively and proactively with the applicant to determine the application in a timely manner.
5. While I understand the applicant's frustrations that the application was not determined within the statutory period and that the communication during the applications process was poor. The applicant indicates that they were made aware of staffing issues during the determination period and sought to progress the application via the Council's complaints process.
6. The PPG makes it clear that costs cannot be claimed for the period of time during the determination of the planning application. After the appeal was lodged the council provided grounds on which they would have refused the proposal had they determined it. Further, the Council provided an analysis of the proposal including clear reasoning and highlighting the relevant

development plan policies. There is no evidence within the claim of unreasonable behaviour by the Council at the appeal stage.

7. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Therefore, the application for an award of costs is refused.

K Allen

INSPECTOR