
Costs Decision

Site visit made on 11 July 2023

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2023

Costs application in relation to Appeal Ref: APP/Z3825/W/22/3311042 6 Yarrow Close, Horsham, West Sussex, RH12 5FP

- 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 Laurence Gyton 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 change of use of land to 'residential', and to erect a new fence to enclose said strip of land for use solely as garden (extension of residential curtilage).
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Decision

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

Reasons

2. 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. It continues that unreasonable behaviour in the context of an application for an award of costs may be either procedural, or substantive, relating to the issues arising from the merits of the appeal.
3. The appellant has set out concerns about the processing of the planning application. The Council has advised that the delay is regrettable, but has not explained its reasons for not reaching a decision within the relevant time limit. In accordance with the PPG¹, had the appeal been allowed, the local planning authority may have been at risk of an award of costs in the absence of substantive reasons to justify delaying the determination, and avoiding the appeal altogether. However, the Council advised the appellant of the intention to refuse the proposal for the same reasons as an earlier scheme, application ref. DC/22/0074. It would therefore appear that an appeal would have been inevitable, whether against non-determination or had the Council issued a decision.
4. The previous application ref. DC/22/0074 was made under the householder planning process with the associated application fee. Although the Council determined the application, it was found to be development beyond the scope of the householder process. A full application with associated fee to address the reasons for refusal was submitted, which is the subject of this appeal.

¹ Paragraph: 048 Reference ID: 16-048-20140306

5. The PPG confirms that costs applications may relate to events before the appeal was brought, but costs that are unrelated to the appeal are ineligible. The power to award costs is limited to those necessarily and reasonably incurred in the appeal process, whereas in this case recovery of a planning application fee which the appellant considers should not have been processed by the Council is not a procedural matter relating to this appeal.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

H Lock

INSPECTOR