



Costs Decision

Site visit made on 1 August 2023

by Samuel Watson BA (Hons) MSc MRPTI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Costs application in relation to Appeal Ref: APP/R0660/W/23/3316789 Heath House, Whitchurch Road, Cheshire East, Bunbury, CW6 9SX

- 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 Mrs Sally Harris 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 the change of use of open countryside to designated garden land to be used in association with Heath House.
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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 applicant has submitted that the Council failed to determine an application that should have been permitted and did not communicate with the applicant to explain the delay or request an extension of time. The applicant also raised concerns as to the quality of the Council's consultation responses. Cumulatively the applicant considers the Council to have acted unreasonably and that this has led to wasted expense in going to appeal.
4. From the information before me it appears that the Council did not properly engage with the applicant through the planning application process. Whilst the lack of communication would have been unhelpful for the applicant, given the matters upon which the appeal turns, I do not find that there would have been a different outcome to the planning application with better communication, even if an extension of time had been requested. I therefore do not find this behaviour to have been unreasonable.
5. I note that the Council have suggested in their appeal submissions that they were still dealing with a backlog stemming from the Covid-19 pandemic and that this led to delays in dealing with cases. As such the Council have explained the reason why they did not reach a decision in the relevant time limit, in line with the PPG. The Council were therefore also not unreasonable in this regard.
6. I find that the matters this appeal turned on rely on a strong degree of judgement being employed and there was a reasonable potential for a difference of opinion to arise given the limited submissions available to the

Council. Although I found differently to the Council with regard to the impact of the proposal on character and appearance and trees, I am satisfied that the Council suitably justified its concerns within its submissions. This is irrespective of any concerns as to the quality of the consultation responses.

7. Given the above as well as my findings set out the in associated appeal decision, I do not find that the Council delayed development that should clearly have been permitted. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Samuel Watson

INSPECTOR