



Costs Decision

Site visit made on 6 September 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Costs application in relation to Appeal Ref: APP/R3650/W/22/3311226 Technology House, Church Road, Shottermill, Haslemere GU27 1NU

- 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 Property G & H Ltd for a full award of costs against Waverley Borough Council.
 - The appeal was against the refusal of planning permission for the refurbishment of Technology House to include existing ground floor shop and 6 residential units with associated car parking.
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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 sets out that a costs application can be made on both procedural and substantive grounds and provides examples of the types of behaviour that would be unreasonable in this regard. The applicant has applied for a full award of costs on the basis that the Council did not work proactively, and it is a lack of communication which led to the application being refused.
4. Firstly, it is said that there was a delay in allocating the pre-application enquiry to an officer who could provide advice to the applicant. Secondly, it is suggested that the Council did not engage in any communication with the applicant during the 15 weeks it took to deal with the application.
5. Costs cannot be claimed for the period during the determination of the application and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. Nevertheless, behaviour and actions relating to the application can be taken into account.
6. Whilst the delays involved in obtaining the pre-application advice were unfortunate and no doubt frustrating for the applicant, no complaint is raised in regard to the actual advice that was received. Furthermore, there is nothing before me to suggest that had the advice been received sooner it would have differed in any way from that which was eventually provided. Consequently, it seems unlikely that the applicant's formal submission or the Council's eventual decision would have been any different had the pre-application advice been provided in a more timely manner.

7. It appears that high caseloads were the main reason for the delays experienced by the applicant during the time the planning application itself was being considered by the Council. This is belatedly explained in email correspondence between the case officer and the agent. Whilst the emails from the case officer may have initially been in response to the agent's prompting and offered little substantive information, later emails did appear to offer slightly more constructive engagement. Therefore, given that there was some email correspondence, I cannot agree with the applicant's assertion that there was not any communication with the Council before it issued its decision.
8. Given what appear to be the Council's fundamental concerns over the design and appearance of the proposal, there is nothing to indicate that had the discussions on the planning application been undertaken earlier this would have altered the eventual outcome or the need for an appeal.
9. Whilst Councils are encouraged to work proactively, a Council is not under an obligation to continually engage in discussions whilst processing a 'live' planning application, especially if it considers the proposal to be fundamentally unacceptable. Such a requirement would unduly extend the time taken to determine an application, without there necessarily being any real prospect of finding a solution.
10. In this case, whilst the highway safety reason for refusal was ultimately conceded by the Council, this was only following the appointment of transport consultants, revised drawings and the submission of a subsequent application to build 3 additional residential units on the site. Such information was clearly necessary to overcome the concerns of the Highway Authority. It was not unreasonable that the Council chose not to resolve the highways safety aspects prior to making its decision on this initial proposal, given its stance on the overall harm caused by the proposal's appearance.
11. Clearly there were delays in processing both the pre-application submission and the planning application. The service provided fell short of the applicant's expectations. Such delays are likely to erode trust and confidence in the service, ultimately damaging the reputation of the Council's planning functions. Nevertheless, I cannot agree that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in this case. Accordingly, an award of costs is not justified.

Stewart Glassar

INSPECTOR