
Costs Decision

Site visit made on 3 October 2023

by S Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 October 2023

Costs application in relation to Appeal Ref: APP/R0660/W/23/3320228 Keeper's Cottage, Manor Park Road, North Rode, Cheshire CW12 2PG

- 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 Cheshire East Council for a full award of costs against the appellant, Carl Welford.
 - 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 demolition of existing house and detached garage. Proposed new-build dwelling.
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (PPG) states that parties in planning appeals should normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably, and this has caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. Costs cannot be claimed for the period during the determination of the planning application but while costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken onto account.
4. In this case, the application for costs by the Council relates primarily to the appellant's behaviour during the planning application process, notably the protracted email correspondence despite contact from various members of staff, and the making of a formal complaint. In addition, having received negative feedback, the appellant sought to progress the scheme through an alternative proposal for extensions to the dwelling, with which the Council was cooperating, before submitting an appeal against non-determination. The Council considers these matters constituted a waste of its limited resources and officer time. Furthermore, the Council assert the appellant delayed determination of the application in order to use the appeals process to reach a decision.
5. In response, the appellant has sets out his frustrations with what he considers to be a lack of engagement from the Council, a lack of or a delayed response to emails and requests for advice and clarity on both the proposal and on an

alternative scheme. The appeal was made on the basis that no formal decision on the application had been made.

6. I have seen and read email communication between the parties which I understand to be only part of the totality of the correspondence. I can appreciate the frustration of both parties.
7. The advice provided by the Council on 10 March 2023, to my mind, is comprehensive and cogent, setting out the Council's objections to the scheme and providing the appellant with options to withdraw the application, let it proceed to refusal and appeal, or submit further information to reduce the number of reasons for refusal. A further, equally clear email, was sent by the Council on 22 March 2023, including details of what could be included in a revised, resubmitted scheme.
8. It is unclear why the appellant did not pursue the options suggested by the Council or why the Council did not subsequently proceed to refuse the application at an early stage given the clear and convincing objections to it. Nevertheless, it seems to me that whilst professionally represented, the appellant is not a planning professional and may not have understood the planning process, the limitations on Council officers, the scope to consider alternative schemes whilst an application is being determined, or the role of the Council in assisting to develop an alternative scheme.
9. On that basis I am unconvinced that the appellant's requests for further clarity or advice amounted to unreasonable behaviour in itself. Similarly, the use of the Council's complaints procedure to express dissatisfaction with the service, to which the Council responded robustly, was open to the appellant and I do not find unreasonable behaviour in that regard.
10. Following the submission of the complaint it seems the Council provided some advice on an alternative proposal to assist the appellant. I am not aware what the alternate proposal was. Nevertheless, whilst the discussions on alternative schemes may have prolonged the application process, it is unclear whether the Council would have accepted a significantly different proposal under the same application given the need to carry out consultations with interested parties for example, or moreover, would have ultimately reached a different conclusion. In that case an appeal was unavoidable. Furthermore, it was not unreasonable for the appellant to seek a resolution on the original application by submitting an appeal against non-determination and at the same time pursue an alternative planning application.
11. On that basis, whilst there may have been delays during the application process which are likely to have cost both parties time and resources, that had no bearing on the appeal.
12. As such, I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. Accordingly, an application for an award of costs is refused.

S Ashworth

INSPECTOR