



Costs Decision

Site visit made on 5 December 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2024

Costs application in relation to Appeal Ref: APP/Z4310/W/23/3318830 241 Vauxhall Road, Kirkdale, Liverpool L5 8TY

- 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 Kersh Worral Commercial Ltd for a full award of costs against Liverpool City Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application to erect 39 no. dwellinghouses and four storey block comprising 29 no. flats with associated parking, landscaping and ancillary works.

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. Paragraph 049 of the PPG advises that a local planning authority could be at risk of a substantive award of costs if they behave unreasonably, for example, by unreasonably refusing or failing to determine planning applications. The applicant references the Council not determining the application subject of this appeal within the statutory period and that they have prevented or delayed development which should clearly have been permitted.
4. The Council has acknowledged the delay but has stated that there was regular dialogue with the applicant until the Planning Committee¹, where elected members deferred the consideration of the application for a site visit. Whilst this is a reasonable part of the democratic process in considering applications, the Council has not explained why a site visit could not be arranged before 22 March 2023, which is the starting date they have provided for the pre-election period. Following the elections, the application was not put to the first Planning Committee on 6 June 2023. The Council has stated that the membership of the committee changed significantly following the elections, but this does not explain why it was more appropriate for the application subject of this appeal, albeit a major application, to be considered at the following committee meeting. I consider this delay to be unreasonable behaviour.
5. The Council has however indicated that it would have refused the application and set out the reasons why it would not have granted permission.

¹ 13 December 2022

Notwithstanding my findings on this appeal in the accompanying decision, it is not the case that the appeal could have been avoided and the applicant has not therefore incurred unnecessary or wasted expense as a result of the submission of this appeal.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not therefore justified.

F Rafiq

INSPECTOR