



Costs Decision

Site visit undertaken on 26 January 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Costs application in relation to Appeal Ref: APP/W2845/W/23/3321570 Land adjacent to No.30 West End, West Haddon, Daventry NN6 7AY

- 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 Mc Gowan Investments Ltd against the decision of West Northamptonshire Council.
 - The appeal was against the refusal of planning permission for Construction of two new dwellings with associated landscaping.
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Decision Costs Application:

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 appellant has put forward one ground for unreasonable behaviour in this costs decision which relates predominantly to the procedural elements (relating to the process), whereby it has taken some six months without determination, with elements such as consultation responses not forwarded to the appellant which made the appellant appeal for non-determination.
4. The Council states that the reasoning behind the delay is that they were awaiting a decision from an appeal on the same appeal site for another planning application, which would in turn influence the decision it made on the current application. It is obvious from the planning history, that the site has a complicated past with a number of in principle refusals, and that the Council viewed it pertinent to wait for a decision from the Planning Inspectorate. However, the Council also viewed the site as having 'no reasonable prospect' of being granted planning permission, but still withheld its decision for some six months. The Council also admits to not keeping the appellant properly informed of the delay which may have meant that the appellant could have appealed earlier. I consider the actions of the Council, in particular the lack of correspondence with the appellant and the lack of decision making and to make the appellant wait for a decision when it viewed that there was no real prospect was unnecessary, and clearly amounts to unreasonable behaviour.
5. However in considering a costs award, whilst it firstly needs to be demonstrated that one party behaved unreasonably, there also needs to be

sufficient evidence relating to wasted expense. From the Costs application, it would appear that the Appellant seeks costs associated with lodging this appeal. I can appreciate the frustration of the appellant needing to wait for a decision and then appealing for non-determination, however in this case, given the inappropriateness of the proposal (which was also demonstrated by the previous in principle refusal¹ and planning history of the site), the appeal could not have been avoided. It is unclear whether the appellant would have also appealed a refusal to grant permission, as they did in the previous appeal which was determined and subsequently dismissed (albeit the dismissal was after the lodgement of this appeal).

6. I therefore conclude that for the reasons set out above, whilst I agree that the Council has acted unreasonably, this has not resulted in unnecessary expense and as such the appeal could not have been avoided. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

J Somers

INSPECTOR

¹ Council Ref: DA/2020/0627