



Costs Decision

Site visit made on 24 January 2024

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2024

Costs application in relation to Appeal Ref: APP/Y3615/W/22/3311580 Land adjacent to The Chase, Guildford, Surrey, GU2 7UH

- 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 St John's Close Developments Ltd for an award of costs against Guildford Borough 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 student accommodation.
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Decision

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

Procedural matters

2. In the interests of clarity I have taken the above address from the Appeal Form.

Reasons

3. 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.
4. Although the applicant accepts that there is no blame attached to this appeal, this costs claim is based on the Council not being able to consider the planning application within any stated period due to a backlog of over 800 cases.
5. In advising on costs applications concerning instances where the Council has failed to make a decision, the PPG says

If it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. In any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period.

If an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector or Secretary of State concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether.

6. In this instance, it appears from the submissions that the Council told the applicant that the application would not be determined for a few months at least, and gave an explanation as to why. This meant the applicant had the option, which it took up, to submit the appeal against non-determination at almost the earliest opportunity. Furthermore, I have found that some of the matters raised by the Council constitute substantive reasons to resist the scheme. Given the fundamental nature of my concerns about the issue of character and appearance as well as noise and disturbance, I am not satisfied that better communication with the applicant would have enabled the appeal to be avoided altogether.
7. I have noted the comments about the performance of the Council's planning department. However unacceptable the applicant might consider this to be, it is a wider issue and, in the light of my comments above, does not mean that it has incurred expense in relation to the appeal process in this specific case.
8. In any event, I am aware the applicant is seeking a repayment of its application costs. Those certainly pre-date the appeal process, and much of the funding of a planning application is necessary in any event to allow the case to proceed.

Conclusions

9. Accordingly, I conclude it has not been shown that unreasonable behaviour resulting in unnecessary or wasted expense has occurred in relation to the appeal process in this case, and so an award of costs, whether full or partial, is not warranted.

JP Sargent

INSPECTOR