



Costs Decision

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2024

Costs application in relation to Appeal Ref: APP/C4235/X/23/3320102 3 Milton Crescent, Cheadle, Stockport SK8 1NT

- 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 Rabbi Peretz Chein for a full award of costs against Stockport Metropolitan Borough Council.
 - The appeal was against the refusal of a certificate of lawful use or development for change of use from single dwellinghouse to mixed use as a dwellinghouse and community centre.
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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 applicant is of the view that, the local planning authority (LPA) have acted unreasonable in the time taken to determine the lawful development certificate (LDC) and there have been large periods of silence. The applicant also alleges that the LPA has attributed greater weight to the evidence put forward by interested parties and have not attached the same level of importance to the evidence provided by the appellant.
4. The PPG sets out that costs cannot be claimed for the period during the determination of the planning application, but all parties are expected to behave reasonably throughout the planning process. The PPG also says if it is clear that the LPA fails to determine an application within the time limits, it should give the applicant a proper explanation.
5. In this case the LDC application was dated 23 May 2019 and was subsequently refused by notice dated 25 January 2023. I have been presented with several copies of email correspondences which were submitted with the appeal between the applicant and the LPA. These range in date between 2019 and 2022 which show an open and ongoing dialogue with the LPA. The LPA have confirmed in their rebuttal that extensions of time were agreed, and I have no substantive evidence to the contrary.
6. Nonetheless, I note that in correspondence from July 2019 the LPA advised the applicant of representations received with an opportunity to comment and indicated at that point in time that the LDC would likely be unsuccessful. It advised that the applicant was willing to agree an extension of time. Following this, further email exchanges dated August 2019 set out that the LPA were to refuse the application as the existing use was not considered lawful by the

agreed decision date of 30 August 2019. They further gave the applicant an option to withdraw, of which the correspondence confirmed they did not intend to do so.

7. In addition, in November 2019 the LPA invited the applicant to come to the Council's offices to discuss the situation and potential way forward. This was acknowledged by the applicant. Between this period and February 2020, it would appear from the email exchanges that the LPA had spoken directly on the telephone with the applicant's agent. Additional correspondences were exchanged between October 2021 and November 2022 including that the LPA had further reviewed the evidence and had taken Counsel's advice, albeit I have not been provided with this. On the 23 November 2022, the applicant informed the Council that should the application be refused then an appeal would be pursued.
8. Although, I have no further or substantive evidence as to the reasons why it then took the Council until 25 January 2023 to refuse the LDC application, of which I consider could amount to unreasonable behaviour. I do not consider that the LPA have acted unreasonable in that they did not seek to work in a positive and pro-active manner with the applicant. The applicant on more than one occasion provided further information for consideration, including counter evidence on representations made from interested parties. I acknowledge the personal concerns of the applicant and that it took considerable time for determination of the LDC. However, the applicant if they had wished to do so could have made an appeal at any point for non-determination within the statutory 8-week period if an extension of time had not been agreed in writing.
9. The PPG¹ sets out that there is no statutory requirement to consult third parties including neighbours on a LDC application. However, it may be reasonable for a LPA to seek evidence from these sources, if there are good reasons to believe they may possess relevant information about the content of a specific application. The applicant is responsible for providing sufficient information to support an application and an LPA is entitled to canvass evidence if it so wishes before determining an application. This needs to be shared with the applicant to have the opportunity to comment on it and possibly produce counter evidence.
10. Therefore, I consider this assertion made by the applicant to be incorrect, and the evidence presented in the appeal submissions set out how the LPA came to their conclusions on the LDC including the facts of the case. The applicant clearly had sight of the evidence and were able to provide counter evidence. The formal appeal decision sets out the considerations of the case and I have found the Council exercised their duty to determine the LDC in a reasonable manner on the balance of probabilities and the refusal to grant a LDC was well founded. I consider that it is a case which could have only been resolved by way of an appeal, and as such, I find the Council did not act unreasonably in coming to its decision.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense, as defined by the PPG has not occurred and an award of costs is not warranted.

K A Taylor

INSPECTOR

¹ Paragraph: 008 Reference ID: 17c-008-20140306; revision date: 06 03 2014