



Costs Decision

Site visit made on 23 April 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Costs application in relation to Appeal Ref: APP/N4205/W/23/3329739 211-213 New St, Blackrod, Bolton BL6 5AT

- 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 Mrs Sheetal Jaykumar Patel for a full award of costs against Bolton Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for change of use from dwellinghouse to retail unit on the ground floor with self-contained flat above together with alterations to the front elevation and roof and erection of extension and balcony to rear.
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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. In this case, the applicant considers that the Council behaved unreasonably by, among other things, refusing to engage and work proactively to find a solution, the delay in decision making, and failing to request, in a timely fashion, an extension of time to determination the application.
4. The planning application subject of the appeal is an amended scheme following an earlier refused planning application. I understand the applicant considers the Council behaved unreasonably in relation to the determination of the previous application. However, as it is not the subject of the appeal, it is not directly relevant to the application for an award of costs.
5. The PPG sets out that the Council's handling of a planning application can lead to an award of costs. In this regard, if it is clear that the Council will fail to determine an application within the time limits, it should give the applicant a proper explanation. In this case, the Council did not request an extension of time before the deadline for determination had passed and I am not aware that it gave a proper explanation. Nevertheless, the applicant agreed a time extension and the Council did determine the application.
6. The Council did not communicate with the applicant during the processing of the application or request further information or amendments to the scheme. This appears contrary to the National Planning Policy Framework in relation to working proactively to secure acceptable development. However, and taking into account the previous refused application, the Council considered that the

harm and policy conflict could not be mitigated by amendments to the scheme, hence it could not have worked proactively with the applicant.

7. The applicant considers that she was not given the opportunity to provide further supporting evidence in relation to traffic movements and comings and goings, such as may have allowed the Council to reach a different conclusion. However, even if such information had addressed the Council's concerns in relation to noise and disturbance to the neighbours, that was not the only grounds for refusal. Moreover, while the appeal provided the opportunity for such information to be submitted to overcome the Council's concerns, no further information was provided in these regards.
8. The applicant is understandably frustrated that planning officers could only be contacted by email, but they did not respond to her emails. While that does seem unreasonable, there is little evidence that better communication would have resulted in a different decision. The applicant believed that the Council requested an extension of time in order to work with her to agree an acceptable development. However, I am not aware that that the Council gave her reason to believe that the proposal was or could be made acceptable. While the time extension was not requested in a timely fashion, it was not unreasonable of the Council to request it.
9. As can be seen from my appeal decision, I came to a different conclusion to the Council in relation to some of the reasons for refusal. Nevertheless, I concluded there would be harm to the character and appearance of the area and I dismissed the appeal accordingly. Therefore, irrespective of the delay in decision-making, planning permission was not unreasonably withheld and the Council's decision did not prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

Conclusion

10. Therefore, I find that with reference to the PPG, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. Consequently, an award of costs is not justified in this case and the application is refused.

Sarah Manchester

INSPECTOR