



Costs Decision

Site visit made on 10 July 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 16 July 2024

Costs application in relation to Appeal Ref: APP/C1055/W/24/3339424 14 Birches Road, Derby DE22 2HY

- 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 Mr Graham Howell for an award of costs against Derby 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 for planning permission for replacement of existing front wall which currently retains the existing driveway, providing greater security to the property given the recent trespassing experienced. The wall will have pillars which in between will have fencing rails. The wall will be finished in the same render as the house and the rails in anthracite grey to match the existing property windows.
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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 states that they are applying to have the planning application fee refunded due to a decision not being made within the appropriate timeframe. I am aware of the Planning Guarantee which sets out that planning application fees can be refunded by the Council in certain instances. For clarity, an award of costs can only be awarded in relation to unnecessary or wasted expense at the appeal, not during the planning application. Therefore, the Planning Guarantee does not fall within the scope of this application for costs.
4. The applicant identifies that following the submission of the planning application, engagement from the Council's Planning Officers was limited and that the time taken to respond was deeply frustrating. The applicant asserts that if there had been positive engagement then any concerns which might have arisen could have been addressed via amendments to the proposals.
5. The Council state that whilst responses were delayed in some instances, they were trying to advise the applicant and resolve issues by suggesting amendments to the scheme. Nevertheless, the Council failed to determine the application by the statutory deadline and by the deadlines set out in agreed extensions of time. The Council therefore failed to determine the application in a timely manner.

6. Whilst I do understand the applicant's frustration in relation to delayed responses by the Council and the lack of a decision being made, I have found that the development is harmful to the character and appearance of the area, and the reasoning provided by the Council in this respect is clear.
Correspondence provided also demonstrates that the Council did raise concerns about the proposed development with the applicant during the assessment of the planning application. Therefore, the failure of the Council to determine the application in a timely fashion has not prevented or delayed a proposal which clearly should have been permitted, from being completed.
7. In conclusion, whilst I sympathise with the applicant about the time that it has taken, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not occurred and an award of costs is not warranted.

G Dring

INSPECTOR