



Costs Decision

Site visit made on 18 June 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2024

Costs application in relation to Appeal Ref:

APP/P1805/W/23/3326231Hollywell Lane/Whettybridge Road, Rubery, Birmingham, West Midlands, B45 9EJ

- 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 Access Home LLP for a full award of costs against Bromsgrove District 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 2 pairs of 3 bed semi-detached dwellings 4 dwellings in total.
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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 submits that the Council did not engage positively with the applicant, ignored the submission of additional details, and did not provide a decision in a timely manner. The applicant considers that this ultimately required them to submit an appeal against non-determination which has resulted in wasted expense through the preparation and defence of the appeal.
4. From the information before me it is clear that the planning application continued for some significant time. As part of this I note that there were gaps between communications from the Council and the applicant chased responses a number of times. However, I am mindful that some of this timeframe stems from the time it took for additional information to be provided and for re-consultation to take place. I nevertheless recognise that the slow progress of the case would have likely been frustrating for the applicant.
5. However, from the Council's timeline of emails it is clear that the applicant was warned very early on in the process about the Council's concerns and that this would likely result in the application being refused. This warning was followed by a further email reiterating the Council's concerns and requesting further information to be submitted. I consider to this extent the Council were proactively engaged with the applicant, in particular with regard to the first communication above, which would have set expectations early on in the process.

6. Although, as I note, the Council's delayed responses may have been frustrating and somewhat unhelpful, I am content that they did not act unreasonably with regard to being proactively engaged.
7. The Council did not make specific reference to highway safety concerns in their statement of case. However, they did include an abridged version of Worcestershire Highways' comments made after additional information was provided. I am content from this that the Council considered the additional information.
8. The tree shading plan submitted by the applicant shows that the canopy and shading arc of two trees would affect the proposed middle two gardens. The Council made specific reference to the presence of these trees and that they would causing shading to these two gardens. Although I found differently to the Council, in that no harm would occur from this, I therefore find no reason to believe that the Council did not consider this plan.
9. Although the planning application process was prolonged and ultimately led to a non-determination appeal being made, I consider the Council were engaged with the applicant and considered the information before them. The Council were also clear from an early stage that they considered there to be a low likelihood of a permission being granted. Given this, and the justified reasons given by the Council, I do not find that an application, that should have been approved, was unduly delayed. The expenses generated by the applicant were therefore necessary in defending the appeal.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Samuel Watson

INSPECTOR