



Costs Decision

Site visit made on 18 June 2024

by B Astley-Serougi BA(Hons) LLM MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2024

**Costs application in relation to Appeal Ref: APP/J4423/W/24/3337715
Land between 9 Brotherton Street and 204 Rock Street S3 9DW, Sheffield ,
South Yorkshire , S3 9DW**

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. Unreasonable behaviour on the part of a local planning authority may include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, acting contrary to, or not following, well-established case law, or not determining similar cases in a consistent manner.
4. The application is made essentially on the basis that the Council changed their indication of a positive outcome at pre-application stage to a negative outcome during the application process. Additionally, the time taken for the outcome to be indicated and perceived lack of transparency and engagement.
5. The Council failed to give notice of its decision on the application within the prescribed period despite an agreement of an extension of time. The Council acknowledges and apologises in their statement the delays occurred throughout the process due to various factors including public holidays and illness. Whilst I acknowledge the frustration this caused the applicant; I do not consider these delays to have resulted in an unreasonable behaviour because the Council did engage with the applicant and informed them of their intention to refuse the application. Thus, a submission of an appeal by the applicant would have been likely and I do not consider there to have been an incursion of an unnecessary or wasted expense.
6. Comments from a pre-application are indicative and not legally binding, therefore there is no duty for the pre-application outcome to be upheld in the determination of the subsequent application. Whilst I acknowledge the frustration of the appellant, the subsequent application decision (or in this case indication) is one which is a matter of judgement. Thus, the Council did not behave unreasonably in their assessment of the application.
7. I have found in my appeal decision that the harm arising from the development would not significantly and demonstrably outweigh the benefits. However, this

was a matter of planning judgment, and the Council has set out its reasoning for reaching a different conclusion. Whilst I do not agree with that view, I do not consider that the Council acted unreasonably in refusing permission.

Conclusion

8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

B Astley-Serougi

INSPECTOR