

Costs Decision

Site visit made on 6 September 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2024

Costs application in relation to Appeal Ref: APP/B3030/W/24/3338948 Land to the rear of 112 High Street, Collingham, Newark, NG23 7NG

- 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 Jonathan Bailey for a full award of costs against Newark and Sherwood 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 1no. dwelling and detached garage following demolition of storage building.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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 submitted amended plans to address concerns raised by the Council's Conservation Officer that had been published on the public access system. Given that the Council had already failed to make a decision within the relevant determination period, and had sought additional information regarding trees on neighbouring land, there was no reason why it should not accept and consider the amended plans, together with the requested tree survey, with a view to either avoiding the appeal altogether, or reducing the matters in dispute. I am advised that the amended plans submitted were uploaded to the Council's public access system and were not returned with a valid explanation as to why they could not be accepted and considered within an agreed extended period of time. In this respect I note that the Council accepts that it behaved unreasonably in not seeking an extension of time to consider the tree survey that it had requested.
4. The PPG advises that parties should continue to work together after an appeal is lodged. However, the Council has sought to defend the appeal based upon the original plans and not those submitted with the appeal, and long before the appeal was lodged. No justification has been provided as to why the Council did not consider the amended plans submitted, prior to advising the applicant of its intention to refuse planning permission based upon design concerns that the applicant had already sought to address.
5. It is clear from the evidence before me that the Council failed to work proactively with the applicant in accordance with paragraph 38 of Planning

Policy Framework. A more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal. Furthermore, the Council behaved unreasonably in not reviewing its case promptly following the lodging of an appeal against non-determination, as part of sensible on-going case management.

6. The actions of the Council in refusing to work proactively with the applicant and refusing to consider additional information submitted in a timely manner to address concerns raised, resulted in the applicant incurring additional expense in the submission of an appeal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Newark and Sherwood District Council shall pay to Jonathan Bailey, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Newark and Sherwood District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Bartlett

INSPECTOR