



Costs Decision

Site visit made on 13 August 2024

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

an Inspector appointed by the Secretary of State

Decision date: 11 October 2024

Costs application in relation to Appeal Ref: APP/B3438/W/24/3340771

- 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 John Matthews for a full award of costs against Staffordshire Moorlands District Council.
- The appeal was against the refusal of planning permission for the erection of one dwelling.

Land adjacent The Bungalow, High Street, Kingsley, Staffordshire

Decision

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

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 despite the previous appeal decision¹ and the positive recommendation from the Planning Officer, the Council's Planning Committee refused the application on the grounds of loss of privacy and outlook for neighbouring residents. Additionally, the perceived unnecessary delay in regard to the determination of the application.
5. A previous Inspector dismissed an appeal for a dwelling on the site on the sole basis of privacy regarding windows on the front elevation of the proposed development. Furthermore, the Inspector was clear in their decision that the conservatory at 40 High Street, Kingsley was in situ. The Council have referred to the conservatory as only being constructed at the time of the current appeal and have therefore referred to this as the material difference between the applications. The evidence before me demonstrates that this is not the case. The previous Inspector was clear in regard to the harm of specific windows (bedrooms 2 and 3) and that a condition with regard to obscure glazing would be sufficient for the bathroom window. Therefore, it is unreasonable for the Council to refer to windows that were not highlighted as a concern previously as a basis for refusal. Moreover, the revised scheme which includes the

¹ Planning Appeal Decision reference: APP/B3438/W/22/3313195

relocation of the windows addresses the previous appeals reason for dismissal and should clearly have been permitted. Thus, the Council have persisted '*...in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.*' (paragraph 049 Reference ID: 16-049-20140306 of the PPG). Whilst there is an element of judgement involved, the Council has shown no reasonable basis for the stance taken by its Planning Committee. Therefore, the submission of an appeal by the applicant is an unnecessary expense.

6. Finally, the Council acknowledges the timescale in which the determination of the application took place was longer than usual. They have also asserted that after 8 weeks, if the appellant was dissatisfied during the process, they could have appealed to the Planning Inspectorate against the Council on the grounds of non-determination. With regard to timeliness, the applicant's costs claim, details the application validation date, the Planning Committee date, and the decision date. Although the application took longer than 8 weeks and the delay was frustrating for the applicant, even if the decision was made earlier this would not have avoided the need for the appeal. I therefore find no unreasonable behaviour on procedural grounds.
7. Accordingly, I am of the view that unreasonable behaviour as described in the PPG has been demonstrated on the part of the Council with regard to preventing or delaying development which should clearly be permitted. This has resulted in the applicant's unnecessary expense in contesting the appeal. A full award of costs is therefore warranted.

Conclusion

8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

9. 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 Staffordshire Moorlands District Council shall pay to Mr John Matthews 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.
10. The applicant is now invited to submit to Staffordshire Moorlands 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.

B Astley-Serougi

INSPECTOR