



Costs Decision

Site visit made on 19 November 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2024

**Costs application in relation to Appeal Ref: APP/F3545/W/24/3345512
Rose Bank, Burton End, Haverhill, Suffolk, CB9 9AD**

- 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 Mark Simpkin for a [partial] [full] award of costs against West Suffolk Council.
- The appeal was against the [refusal of] [failure of the Council to issue a notice of their decision within the prescribed period on an application for] [grant subject to conditions of] planning permission for [development].

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. Paragraph 049¹ of the PPG highlights the examples of unreasonable behaviour by Local Planning Authorities where costs can be awarded. The applicant has submitted that the Council has acted unreasonably in that they failed to determine the application thus 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.
4. The PPG also states that if an appeal against a failure to determine is allowed, the LPA may be at risk of costs if it is concluded that there were no substantive reasons to justify delaying the determination and that better communication with the applicant would have avoided the appeal altogether².
5. From the information before me, it appears that the Council have received various pre-application submissions, full planning applications and a previous appeal decision at the site over a significant period of time. The applicant highlights that the Council has only recently introduced guidance as contained in the FIT/LEAP 2015 guide, in respect to a minimum distance of 20 metres between play equipment from the nearest residential boundary. Whilst I have not been furnished with this guidance, I do not find this information was determinative in the Council's consideration of the case, as this did not form part of their putative reasons for refusal.

¹ Paragraph: 049 Reference ID: 16-049-20140306

² Paragraph: 048 Reference ID: 16-048-20140306

6. Nevertheless, I would acknowledge that the Council did not act in a communicative, timely or pro-active manner as advised by the PPG, given the introduction of this new information at such a late stage in the process. This could constitute unreasonable behaviour. However, for a costs application to be successful, unreasonable behaviour must also result in unnecessary costs being incurred by the successful party.
7. Whilst the Council did fail to determine the scheme in a timely fashion, they have clearly set out within their Statement of Case the reasoning why, had they determined the application, they would have resolved to refuse the scheme. In this case, the Council has provided several putative reasons for refusal on which they set out why permission would not have been granted had the application been determined within the relevant period. Whilst I have come to a different conclusion to the Council on character and appearance, I have found the scheme to be contrary to the relevant parts of the Development Plan and the National Planning Policy Framework in respect to the living conditions of future occupiers.
8. Consequently, I am therefore satisfied that even if the Council had made their decision within the statutory timescale, the application would have been refused and an appeal would have resulted. Therefore, I do not find that the delays in the Council determining the application prevented or delayed a development which should clearly have been permitted. There was not, as a consequence, unnecessary or wasted expense as the Council's case was well-founded and justified.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for costs is refused.

Robert Naylor

INSPECTOR