
Costs Decision

Site visit made on 20 November 2024

by **Paul Martinson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Costs application in relation to Appeal Ref: APP/R0660/W/24/3346588 Bullmoor Farm, Key Green, Congleton, CW12 3PZ

- 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 and Mrs P Kirby for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for development described as: 'demolition of existing dwelling and erection of replacement dwelling including detached garage and associated landscaping'.
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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. Paragraph 49 of the PPG sets out that local planning authorities are at risk of an award of costs if they refuse to enter into pre-application discussions, or to provide reasonably requested information, when 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.
4. The applicants' argument for a full award of costs is that the Council did not work pro-actively with them during the period during which the application was under consideration. The planning application was submitted on 29 February 2024 and refused with a single reason for refusal 8 weeks later on its target date of 25 April 2024. The applicants set out that there was no communication from the Council during the course of the application, despite the agent contacting the Council on 4 April 2024, by email, for comments on the proposal which had been amended following an earlier refusal. There was no reply to the agent's email and the decision was issued without any prior warning from the Council.
5. However, given the extent of the Council's concerns, it is not clear to me that, had the Council responded to the agent, there would have been opportunity within the remaining period of the application to amend the scheme in such a way that an appeal could have been avoided, or the issues narrowed. Furthermore, there is no statutory duty on the Council to communicate with an applicant during the period that the application is under consideration, nor is there any requirement to advise applicants on how to make their scheme acceptable.

6. There was nothing procedurally incorrect in the Council's handling of the application. The decision was reached in a timely way within the original 8 week period and the reasoning was clearly set out in the Officer's report. Although the Council could have better communicated its position and intentions to the applicant in good time before the decision was made, I find that this failure, in itself, was not the reason why the planning application was refused. As such I am not convinced that the Council's handling of the application amounts to unreasonable behaviour or that it has directly caused the applicants to incur unnecessary or wasted expense at appeal.

Conclusion

7. For the above reasons I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Paul Martinson

INSPECTOR