



Costs Decision

Site visit made on 8 October 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2025

Costs application in relation to Appeal Ref: APP/Q4245/W/24/3339221 Cloud 9, Bow Green Road, Cheshire WA14 3LX

- 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 Trafford Metropolitan Borough Council by for a full award of costs against Dr Mehjabeen Khan.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a stand-alone application for outline planning permission for the erection of a pair semi-detached dwellings on Plot#3 at crossroads with Bow Green Road & Stanhope Road, & demolition of existing dwelling over Plot#1 & 2 Bow Green Rd (consent sought for access, appearance, layout and scale with all other matters reserved).

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. The PPG advises that all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceedings, behaviour, and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
4. Planning permission had been granted at appeal for two dwellings on the appeal site¹ (the 2020 appeal). The applicant then sought permission for two dwellings that were larger than those approved. The description of development made no reference to the previously approved development and referred to the two dwellings, access road and demolition of the existing dwelling. Furthermore, this scheme sought outline approval whereas the original permission was made in full. The applicant did state within their Design and Access Statement that the application intended to allow for an extension of time of the previously approved full application.
5. The applicant should not have used the terminology that they did within their evidence but in principle the scheme sought permission for two dwellings and permission had been granted for two dwellings on the site and as such the two

¹ Appeal Reference: APP/Q4245/W/20/3250863

schemes had many similarities. In effect it was an application in its own right and should have been determined as such.

6. However, the applicant did, in their emails with the Council during the determination of the application, state that the plans had been revised to reflect the approved development and the submitted plans did not replicate exactly the approved development. If the applicant wished for the application to be determined in accordance with the plans they had submitted this would have been reasonable. However, to consistently state that the intention was to submit revised plans to be a mirror of the approved scheme but then submit plans that did not do this is unreasonable behaviour and shows a lack of cooperation with the Council. This also concerned the red line plan which did not include the entirety of the house that is proposed to be demolished.
7. There were large gaps in communication between the applicant and the Council and this compounded the issues with the lack of clarification from the applicant over what had been included in the revised plans. If the applicant had been upfront and said that the application should be determined as submitted then the Council could have determined the application on that basis, instead of trying to work with the applicant to get a scheme it could support.
8. It is commendable that the Council tried to work with the applicant to get a scheme it could support but it is not always possible to do so. The Council would have been within its right to refuse the application based on the plans submitted.
9. The applicant is not under any obligation to accept an extension of time for the Council to determine the application. The statutory timelines are set timelines and the consequences of not determining the application within them are clear. The applicant was within their right to submit the appeal against non-determination, and it was not unreasonable of them to do so if they felt a satisfactory outcome was not achievable. It is evident in the submissions by the applicant that they felt it was not.
10. The applicant submitted late evidence during the determination of the appeal. Much of this related to applications that had either been submitted or determined following the submission of this appeal. For the reasons given in the Appeal Decision it was concluded that it was not unreasonable or unfair for this information to be submitted. However, it was found would be unfair and a breach of natural justice to accept the two highways' plans but given that these were not accepted no wasted expense in the appeal process occurred for the Council in relation to this.
11. For costs to be awarded there would have to be unnecessary or wasted expense in the appeal process. Whilst revised plans may have addressed the first reason for refusal in the Council's Statement of Case there was a second reason that the revised plans may not have addressed. Additionally, within its evidence the Council identified that its 5-year housing land supply position had changed and that there had also been significant changes in the local and national planning policy context since the 2020 appeal was allowed. This may have led the Council to come to a different conclusion on the merits of the scheme and it is not clear that the appeal would have been avoided if the revised plans had been submitted as expected during the determination of the application.

12. Therefore, whilst the applicant did act unreasonably, unnecessary or wasted expense in the appeal process has not occurred and an award of costs is not warranted.

G Sibley

INSPECTOR