



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 by Dr Mehjabeen Khan for a full award of costs against Trafford Metropolitan Borough 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 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).
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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. 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. During the determination of the application there were large gaps in communication between the applicant and the Council and the application was not determined within the statutory time period. Whilst unfortunate there were extenuating circumstances in this instance with both parties seeking clarification on several matters. Based on the evidence before me the applicant stated that they intended to provide a response to the Council's requests and did so on a number of occasions. As such, it was not unreasonable for the Council to delay determining the application whilst it felt the applicant was willing to work with it to create a scheme it could support.
5. Given the continued disagreements between the two parties it is not evident that if accompanied site visits took place that this would have resulted in the appeal being avoided.

6. The Council undertook a comparative assessment of the proposed and approved developments and concluded that the proposed scheme would be more harmful to the character and appearance of the area than the fallback scheme and determined that in this instance there is no fallback argument in favour of the proposal. Whilst in the Council's opinion the approved scheme had not been lawfully commenced it even considered the merits of the fallback scheme on the assumption that it had been lawfully commenced. On this matter, the Council undertook its own objective analysis and did not act unreasonably in making its own judgement on the weight to be given to the fallback scheme within its submitted evidence. Similarly, the Council considered other schemes that had been permitted nearby and provided an objective analysis concerning the differences between them and the appeal proposal. The weight that is attributed to a consideration is a matter of planning judgement by the decision maker.
7. During the appeal process, it was revealed that the Council failed to provide the Local Highway Authority's comments on the application with its appeal documentation. This was subsequently submitted but only after the relevant information was requested. The applicant notes that they were not given a copy of these statutory consultee comments during the determination of the application which can be construed as the Council deliberately concealing relevant evidence at application stage and at the subsequent appeal. By withholding this evidence, the Council has acted unreasonably in this instance.
8. Whilst the Supplementary Planning Document SPD3: Parking Standards and Design was not submitted alongside the Council's evidence it is a publicly available document that was adopted in 2012. As such, the applicant would have been able to view it prior to submitting the application and the appeal. As a result, the late submission of this SPD by the Council would not have caused unnecessary or wasted expense as the applicant could already access it.
9. For costs to be awarded there would have to be unnecessary or wasted expense in the appeal process. The comments from the statutory consultee were not determinative in this instance as there was no objection to the proposal on highway safety grounds. Whilst the applicant did produce highways plans after the Local Highway Authority's comments were received, no request was made to show a swept path analysis or the visibility splays in the comments. The applicant prepared these plans on their own initiative and possibly in response to comments from interested parties, who did have highway safety concerns, which had been provided within the appeal timetable. For the reasons given in my Appeal Decision it was determined that it would be unfair and a breach of natural justice to accept these plans as late evidence.
10. Furthermore, whilst time was lost in determining whether there was a Plan No 14 as referred to by the Council in its suggested conditions, as well as the Council failing to copy in the applicant to various submissions which required a response, it is not clear how this has led to unnecessary or wasted expense other than in delaying the determination of the appeal.
11. Therefore, whilst the Council 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