



Costs Decision

Site visit made on 8 May 2024

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th May 2024

Costs application in relation to Appeal Ref: APP/H0738/W/24/3339686 9 Spurrey Close, Ingleby Barwick, Stockton on Tees TS17 0SJ

- 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 Miss Pauline Thoburn for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the refusal of planning permission for proposed development described as: 'proposed new porch, side and rear single storey extensions, with boundary wall'.
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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 sets out that if it is clear that a local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. It is unclear from either parties' evidence whether this was done, however I note that the Council outlined its concerns in relation to the proposed boundary wall and provided advice as to how to address them during the 8 week time limit.
4. As such it is clear to me that there was communication between the Council and the applicant during this time. Whilst there was a delay in determining the application, it is nonetheless apparent that there was reasonably regular contact during the application process and that some of the delay was due to the provision of advice and request of amended plans by the Council in order to achieve an acceptable scheme.
5. Nevertheless, 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 the appellants on how to make their scheme acceptable. It is good practice for a Council to clearly outline its concerns prior to issuing any decision, which appears to have been the case here.
6. I accept that the applicant received positive advice from the Council in response to an enquiry that followed an earlier refusal. Whilst the evidence I have in that regard is limited, this does not appear to have been consistent with the later concerns expressed during the application process in relation to the boundary wall. This is regrettable. However, this action has not led to

undue cost at appeal as the Council contacted the applicant informing them of these concerns during the application process and offered the applicant the opportunity to amend their proposal. I note the applicant requested a refusal rather than amend their scheme any further and that the Council issued a prompt decision following that request. I am therefore not convinced that the actions by the Council in this regard have directly caused the applicant to incur unnecessary expense at appeal, nor could an appeal could have been avoided.

7. Whilst I understand the applicant is still waiting for a reply to a letter sent to the Council on 3 February 2023, this relates to the earlier refusal and therefore is not relevant to the appeal before me.
8. The applicant seeks to highlight costs incurred through having to live in and maintain two properties because the appeal property cannot be extended, as well as those incurred by their builder through being unable to start work due to delay in obtaining planning permission. In that regard I would note that the PPG makes clear that costs awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.

Costs

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Martinson

INSPECTOR