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## Costs Decision

Site visit made on 5 June 2018

by **Siobhan Watson BA(Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 June 2018

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### Costs application in relation to Appeal Ref: APP/G4240/W/18/3197757 Open land adjacent to 201 Birch Lane, Dukinfield, SK16 5AT

- 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 Prashant Modi (D&P (NW) Ltd) for a full award of costs against Tameside 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 planning permission for residential development comprising of 4 dwellings (reserved matters of appearance, landscaping, layout and scale).
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### Decision

1. The application for an award of costs is refused.

### Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may only 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 Planning Practice Guidance says that *"In any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period... **If an appeal in such cases is allowed** (my emphasis), the local planning authority may be at risk of an award of costs, if the Inspector or Secretary of State concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether."*<sup>1</sup>
4. Two extensions of time were agreed up until 31 January 2018 so that draft revised plans could be considered.
5. The draft revised plans included a sketch to use hipped roofs. The Council contends that the amendment did not overcome its concerns and communicated this to the applicant. Following this the second extension of time was agreed but, the Council says, that no further draft plans were submitted and neither were any amended plans formally submitted.

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<sup>1</sup> Paragraph: 048 Reference ID: 16-048-20140306

6. The applicant then requested that the application be determined as originally submitted, asking that it be determined by 5 February 2018. Given that the appeal is dated 12<sup>th</sup> March 2018 I do find some unreasonable behaviour on behalf of the Council for not issuing a decision before that date.
7. That said, the Council has substantiated its objections to the scheme so it is clear that if the decision had been issued, it would have been a refusal. The appeal would have had to be made anyway. As I have dismissed the appeal, I also find the proposed development to be unacceptable. Therefore, whilst I find unreasonable behaviour there has been no wasted expense.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the applicant's claim for costs fails.

*Siobhan Watson*

INSPECTOR