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## Costs Decisions

Site visit made on 21 February 2017

**by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 1 March 2017**

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### **Costs application 1 in relation to Appeal Ref: APP/R0660/X/16/3156170 Lea Forge Trout Farm, Wybunbury, Nantwich. CW5 7LF**

- The application is made under the Town and Country Planning Act 1990, Sections 195, 322 and Schedule 6 and the Local Government Act 1972, Section 250(5) ("the Acts").
  - The application is made by Mr & Mrs Roy Wiggins ("the Applicants") for a full award of costs against Cheshire East Council ("the 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 Certificate of Lawful Use or Development for a single-storey pitched roof side extension.
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### **Costs application 2 in relation to Appeal Ref: APP/R0660/W/16/3156173 Lea Forge Trout Farm, Wybunbury, Nantwich. CW5 7LF**

- The application is made under the Acts.
  - The application is made by the Applicants for a full award of costs against the 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 the erection of a two-storey extension.
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### **Costs application 3 in relation to Appeal Ref: APP/R0660/W/16/3156174 Lea Forge Trout Farm, Wybunbury, Nantwich. CW5 7LF**

- The application is made under the Acts.
  - The application is made by the Applicants for a full award of costs against the 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 alterations and additions to a dwelling.
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### **Decisions – Applications 1 to 3**

1. The applications for awards of costs are allowed in the terms set out below.

### **Reasons - Applications 1 to 3**

2. The Planning Practice Guidance ("the 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 explains, amongst other things, that:
  - a) Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably failing to determine planning applications.

- b) If it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. 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.
- 4. In this case the Council failed to:
  - a) Determine the three applications that were made to them.
  - b) Give the Applicants a proper explanation as to why they were unable to determine the applications within the prescribed limits.
- 5. During the appeal process the Council failed to explain why permission would not have been granted had the application been determined within the relevant period.
- 6. Further, the Council failed to respond to the applications for awards of costs made by the Applicants.
- 7. The Applicants had no alternative other than to appeal the deemed refusals so as to obtain decisions pursuant to the applications that had legitimately been made to the Council.
- 8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that full awards of costs are justified.

### **Costs Order - Applications 1 to 3**

- 9. In exercise of the powers under Section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Cheshire East Council shall pay to Mr & Mrs Roy Wiggins, the costs of the appeal proceedings described in the heading of these decisions; such costs to be assessed in the Senior Courts Costs Office if not agreed.
- 10. The applicants are now invited to submit to the body awarded against, to whom a copy of these decisions have been sent, details of those costs with a view to reaching agreement as to the amount.

***Tim Belcher***

**Inspector**