
Costs Decision

Site visit made on 5 June 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 8 August 2017

**Costs application in relation to Appeal Ref: APP/Q1153/W/16/3159609
Meadow View Farm, Road from Beare Farm to Farthingland Cross,
Exbourne, Devon EX20 3SH**

- 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 J Carvil for a full award of costs against West Devon Borough Council.
 - The appeal was against the refusal of planning permission for livestock barn.
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Decision

1. The application for a full award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The Council failed to determine the planning application within the statutory period. Whilst this in itself is not unreasonable behaviour, there is nothing to indicate that the Council sought to explain the reasons for the delay or agree an extension to the determination period. Moreover, there is no challenge to the appellant's claim that there was no correspondence or communication at all from the local planning authority, despite numerous and repeated efforts to secure an update on progress. In my opinion this amounts to unreasonable behaviour. That the Council was experiencing staff shortages is not adequate justification.
 4. Faced with a communications vacuum, the appellant had little alternative but to lodge an appeal. The case officer finally made contact some four months later, but only to enquire about the possibility of the appeal being withdrawn – due to a successful prior approval application for an identical livestock barn in the intervening period. The Council argues that continuing with the appeal was unnecessary and superfluous. However, by that stage the appellant had already incurred unnecessary and wasted expense in the appeal process.
 5. The Council seemingly had no objection to the appeal proposal, as evidenced by the officer report and its decision on the prior approval application. The fact that the appellant was able to secure permission by a separate process does not excuse the failures of the local planning authority in its handling of the
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application. Had it dealt with the matter correctly and efficiently, the appeal would have been avoided in its entirety.

6. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense in the appeal process, as described in the PPG, has been demonstrated. A full award of costs is therefore justified.

Costs Order

7. 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 West Devon Borough Council shall pay to Mr J Carvil, the costs of the appeal proceedings described in the heading of this decision.
8. The applicant is now invited to submit to West Devon Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Robert Parker

INSPECTOR