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## Costs Decisions

Site visit made on 18 July, 2017

**by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA**

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

**Decision date: 17<sup>th</sup> August, 2017**

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### **Costs application in relation to Appeal Ref: APP/B1415/W/17/3168285 The Cupola, Belmont Road, Hastings, TN35 5NR**

- 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 Laurence Mullane for a full award of costs against Hastings Borough Council.
  - The appeal was against the refusal of planning permission for replacement of an existing boundary fence for reasons of safety and security along Belmont Road.
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### **Costs application in relation to Appeal Ref: APP/B1415/Y/17/3168286 The Cupola, Belmont Road, Hastings TN35 5NR**

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Laurence Mullane for a full award of costs against Hastings Borough Council.
  - The appeal was against the refusal of listed building consent for replacement of an existing boundary fence for reasons of safety and security along Belmont Road.
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## **Decision**

1. The application for an award of costs is refused in relation to both appeals.

## **Reasons**

2. As set out above, there are two appeals on the site, arising from refusal of a planning application and listed building consent for the same proposal. The application for costs relates to them both. I therefore deal with both together.
  3. The Planning Practice Guidance 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.
  4. The applicant's grounds for seeking costs are procedural, and relate to the delay in the Council determining the applications, and failure of the Council to communicate with the applicant during that time. It is his contention that had he been made aware of concerns over the applications prior to their refusal, he would have been able to amend them.
  5. The Council has explained that the case officer was unexpectedly absent from work for medical and family reasons, and that it was estimated that the consequent delays to the case were not likely to be sufficiently great to warrant
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a change of case officer, which might, indeed, have added to the delay. I have no reason to doubt this explanation.

6. I note also that the Council did approach the applicant at the end of the statutory period, on 6 October 2016, to request an extension of time to 24 October, which was agreed by the applicant. The Council's decision was issued a short period after the extended deadline had expired. Most of the period of delay cannot, therefore, have come as a surprise to the applicant.
7. I note that following a formal complaint to the Council after their decision was issued on 27 October, the applicant was given detailed advice on an amended proposal that the Council was likely to find acceptable, and reminded that a further application to retain the fence, provided it was done within twelve months, would be free. Listed Building Consent is, in any case, free.
8. I notice also that in the e-mail of 28 October from Mr Trett, the applicant's agent, to Mrs Evans of the Council, in which he made his formal complaint on the applicant's behalf, he also acknowledged that the appellant had the option of lodging revised applications.
9. While there was therefore clearly a lapse in communication, and it is understandable that the applicant felt frustrated by not being kept up to date on the progress or outcome of the case, this did not lead inevitably to an appeal. It was open to the applicant to submit revised applications, which, it has been stated, he would have been willing to do had he been made aware of concerns earlier in the process. The Council encouraged him to do so.
10. Consequently, I conclude that although the Council had not communicated entirely effectively with appellant during the life of the applications, this has not demonstrated to unreasonable behaviour resulting in unnecessary or wasted expense as described in the Planning Practice Guidance.

*S J Buckingham*

INSPECTOR