



Costs Decision

Site visit made on 4 September 2019

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Costs application in relation to Appeal Ref: APP/P1133/19/3222830 33 Chestnut Drive, Newton Abbott TQ12 4JX

- 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 R Gibbings for a partial award of costs against Teignbridge District 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 a two storey dwelling with parking.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may 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 applicant had raised the fact that the Council had never responded to any correspondence during the time the application was being determined. Although I have not seen evidence of any specific email correspondence submitted to the Council, I understand the Council do not refute the applicant's position. Indeed, the Council have provided no evidence as to why the application could not have been determined within the statutory period or why no extension of time was requested. Furthermore, no such explanation for not reaching a decision has been provided within the costs rebuttal submissions.
4. The Council acted unreasonably in failing to provide the applicant with any indication of the outstanding issues raised in their Statement of Case or as to why the application could not be determined within a reasonable period. That the applicant did not utilise the Council's pre-application service does not justify the subsequent lack of communication. Nor does the fact that there were outstanding unresolved issues from a previously refused scheme.
5. By failing to communicate or give any indication of the inadequacies within the plans or proposals, the applicant was given no meaningful indication that the application was progressing. From all that I have read, it seems to me that the applicant was not made aware of the issues with the proposals or given the opportunity to withdraw or formally amend the application. In order to obtain any kind of decision on their planning application, the applicant seemingly had little choice but to make their appeal. Therefore, owing to their procedural failings, the Council have behaved unreasonably.

6. In order for an award of costs to be made, it must be clear that unreasonable behaviour has amounted to wasted expense. Even if the Council had found the proposed development unacceptable, with better engagement and communication, it could have liaised with the applicant and thus reasonably enabled the appeal to be avoided altogether.
7. Therefore, I consider that the applicant has incurred some unnecessary and wasted expense in employing an agent to submit the appeal and represent them throughout the process. I conclude that a partial award of costs is therefore justified.

Costs Order

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 Teignbridge District Council shall pay to Mr R Gibbings the costs of the appeal proceedings described in the heading of this award limited to those costs incurred in dealing with the appeal, such costs to be assessed in the Senior Courts Costs Office if not agreed.
- 10 The applicant is now invited to submit to Teignbridge District 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.

H Porter

INSPECTOR