



Costs Decision

Site visit made on 6 January 2019

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 31 January 2020

Costs application in relation to Appeal Ref: APP/C1435/W/19/3238092 Old Mill Barn, Station Road, Isfield TN22 5XJ

- 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 James Kininmouth for a full award of costs against Wealden 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 new extension on the east side of the barn, allowing a new entrance area between the exterior and the main reception room. The proposed extension would comprise of an entrance lobby, an attached W.C., as well as a nook to house a fireplace opening on to the main reception and a small log store accessed externally.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant submits that the Council has acted unreasonably because of the length of time it took in not reaching a decision on the planning application. The application was not determined by the Council and had been registered with it for some months before the appeal was registered.
4. The Planning Practice Guidance indicates that a local planning authority's handling of a planning application prior to the appeal could give rise to an award of costs where such handling amounts to unreasonable behaviour.
5. The evidence indicates that two extensions of time to determine the application beyond the eight-week determination period was agreed to by the applicant. However, it was not until around six weeks after the agreed determination date of the second extension of time that the Council were able to provide meaningful feedback to the applicant on the proposed development; the evidence indicates that the delay was due to the Council's Conservation Officer being away on long-term sick leave. Around two weeks later the applicant contacted the Council by telephone and was informed by the Council that it was minded to refuse the application, however no decision was made in the period leading up to when the appeal was registered, around two weeks later, despite

the applicant contacting the Council by telephone several times to pursue a decision.

6. I have not been provided with any substantive reasons to justify delaying the determination of the planning application further beyond the date when the Council informed the applicant it was minded to refuse the application. As a result, it follows that I find that the Council has acted unreasonably in this case.
7. However, and notwithstanding my planning judgement, taking into account that the Council informed the applicant that it was minded to refuse the application, for the same reasons that it refused the previous application¹, prior to the appeal being registered, it seems to me that, in reality, the applicant has not incurred unnecessary or wasted expense in the appeal process.

Conclusion

8. For the reasons set out above I conclude that, whilst the Council exhibited unreasonable behaviour because of the length of time it took in not reaching a decision on the planning application, I find that no wasted or unnecessary expense has been incurred by the applicant in the appeal process. I conclude therefore, that the application for an award of costs should be refused.

Andrew Bremford

INSPECTOR

¹ WD/2018/1670/F