
Costs Decision

Site visit made on 4 February 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th May 2020

Costs application in relation to Appeal Ref: APP/K0235/W/19/3239876 36 Gold Street, Riseley, MK44 1EQ.

- 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 Dominic Batchelor for a full award of costs against Bedford Borough Council.
 - The appeal was against a failure to give notice within the prescribed period of a decision on an application for planning permission for a two-bedroom bungalow.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 048 of the PPG states that, '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. The application was validated on 1 March 2019 and so the determination deadline was 26 April 2019. The application for costs is made on the basis that the Council did not, on the expiry of the determination period or at any time up until the submission of the appeal on 24 October 2019, request an extension of time or provide an indication as to when the application would be determined, and I have no information from the Council to indicate otherwise.
5. For the purpose of the appeal, the Council have clarified that the delay was due to resource pressures. There is however no further detail provided on this nor any indication that the applicant was made aware of this at the time of the planning application or at any point up to the submission of the appeal.
6. The Council have also referenced previous applications for the site and stated that the appeal scheme raised similar concerns. Whilst I am mindful of this, the previous submissions related to different schemes and there is nothing to

indicate that, in relation to the current appeal scheme, the Council communicated these concerns to the applicant.

7. Whilst I appreciate that resource pressures can cause delays in delivering timely decisions it is incumbent on the Council, as the local planning authority, to fulfil its planning function without unreasonable delay. Where delays are unavoidable these should be explained clearly to the applicant and engagement, even at the basic level, should continue to take place to meet the requirements of paragraph 38 of the National Planning Policy Framework.
8. From the evidence before me, it appears that the extent of the delay and lack of communication was sufficient to constitute unreasonable behaviour on the part of the Council and that behaviour has led to the necessity for the applicant to register an appeal.
9. The Council has confirmed that it would have refused the application though the reason was only provided as part of its Statement to the appeal. This sets out full and detailed reasons which identify both the harm alleged and the policies of the development plan that the Council considered there to be conflict with. It will be seen from my decision on the appeal that I agree with the Council and that there were sufficient grounds for refusing planning permission. I am therefore satisfied that the Council had reasonable concerns about the impact of the proposed development, and I find no unreasonable behaviour in this regard.
10. With regards to the issue of unnecessary or wasted expense, the failure by the Council to determine the application or provide a timescale for determination led directly to the applicant submitting the appeal. Although I have agreed with the Council's assessment and dismissed the appeal, the applicant incurred expense in preparing their appeal documents. The Council's actions have meant that the appellant has incurred unnecessary expense and an award of costs is justified.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

12. 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 Bedford Borough Council shall pay to Mr Dominic Batchelor the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs office if not agreed.
13. The applicant is now invited to submit to Bedford 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.

A Denby

INSPECTOR