
Costs Decision

Site visit made on 1 February 2021

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd February 2021

Costs application in relation to Appeal Ref: APP/E2530/W/20/3261906 5 Manor Farm Mews, High Street, Colsterworth, Grantham NG33 5JA

- 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 and Mrs M Jackson for a full award of costs against South Kesteven 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 the conversion of an existing barn to a dwelling.
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Decision

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

Reasons

2. The *Planning Practice Guide* (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals, and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process.
3. The application for the award of costs is made on the basis that the Council did not determine the appeal within the target decision date that had been set for the application, or by the date subsequently agreed with the applicant, nor within a considerable time after this date had lapsed. Moreover, despite the efforts of the applicant to communicate with the Council about progress in determining the application, they were unable to get any action from the Council. As a result, they had to lodge the appeal.
4. The PPG indicates that if a local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. In addition, it states that 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 time period. It goes on to highlight that if an appeal is allowed in such circumstances, costs may be awarded against the local planning authority if it is considered that there were no substantive reasons to justify delaying the determination and if better communication with the applicant would have enabled the appeal to be avoided altogether.
5. From the evidence before me it is clear that despite the attempts of the applicant to clarify the position in relation to the determination of the

application, the local planning authority gave no explanation as to why it was not determined within the time limits or even when it would be determined. Furthermore, no evidence has been provided by the local planning authority at the appeal stage to clarify how the application would have been determined or to explain why they did not reach their decision within the relevant time period. Nor have the Council responded to this cost application. The applicant's evidence is that other applications submitted to the Council around the same time have all, bar this and one other, been determined.

6. In addition, there is no evidence to suggest that the delay in determining the application resulted in any way from unreasonable behaviour from the applicant, who in fact responded very promptly in producing revisions to the scheme following comments from the Council.
7. In the light of this I consider that no substantive reasons have been provided by the local planning authority to justify the delay in determining the application. Furthermore, better communication with the applicant during the process could have avoided the appeal altogether. I therefore consider the Council's approach does represent unreasonable behaviour and this has resulted directly in the need for this appeal.
8. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is 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 South Kesteven District Council shall pay to Mr and Mrs M Jackson, 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.
10. The applicant is now invited to submit to South Kesteven 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.

Alison Partington

INSPECTOR