



Costs Decision

Site visit made on 31 March 2021

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 April 2021

Costs application in relation to Appeal Ref: APP/A4520/W/20/3263230 The Mill Tavern, Mill Lane, Hebburn NE31 2EU

- 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 Mrs A Davison for a full award of costs against South Tyneside Metropolitan Borough 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 'retrospective consent for storage container and covered walkway to container'.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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 Guidance further sets out that parties in planning appeals normally meet their own expenses. Additionally, the Guidance is clear that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Costs cannot be claimed for the period during the determination of the application, albeit behaviour and actions at the time of the application can be taken into account in the consideration of whether or not costs should be awarded.
4. In summary, the applicant's claim for costs stems from the Council delaying consideration of the application, failing to issue a decision within the statutory period, and ultimately having to lodge an appeal against non-determination.
5. The applicant has highlighted a number of instances which resulted in delays in the Council's consideration of the application, including the time to put up the site notice and receive consultation comments. However, I am mindful of the impact of the Covid-19 pandemic, which not only meant a lot of staff working away from Council offices, but also travel restrictions which led to site visits having to be put on hold. It would therefore be unfair of me to lay too much criticism at the Council for any delays caused by an unprecedented global health crisis during the application process.
6. Furthermore, the evidence before me indicates there was some correspondence between the parties prior to the appeal being submitted, which led to a request for amendments. Frustrating as this late request would have been for the applicant, the Council's position was nevertheless made clear at that point. This

allowed the applicant to make an informed decision on whether to submit the appeal against non-determination.

7. Whilst in my Decision I have reached a judgement in favour of the appellant; I appreciate that the effects of the proposal on the character and appearance of the area involves subjective judgement. In its appeal statement, the Council set out cogent reasons why it would have refused the application, with reference to the relevant development plan policies. Although I disagreed with the Council's assessment, it was reasonable for the Council to have exercised planning judgement in reaching its own views in this regard.
8. In terms of the issue of unnecessary or wasted expense, the failure by the Council to determine the application led directly to the applicant submitting the appeal. Nonetheless, this would likely have been the case had the Council determined the application. The appeal against non-determination was the applicant's choice and thus the appeal costs from that point onwards were self borne.
9. Also, whilst noting the applicant's contention that the delays affected the business opening, the Guidance is clear that costs awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission. Furthermore, I note that at some time prior to the appeal being submitted the appeal scheme had been carried out without planning permission.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated, and therefore an award of costs is not justified.

A Caines

INSPECTOR