

## Costs Decision

Site visit made on 24 May 2021

**by Mrs H Nicholls FdA MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 June 2021

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**Costs application in relation to Appeal Ref: APP/P1133/W/21/3268410  
Bishopsteignton Methodist Church, 41 Fore Street, Bishopsteignton  
TQ14 9QR**

- 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 Eddy Stephenson for a full 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 extension and refurbishment of existing toilet facilities to allow for the provision of 1 No wheelchair disabled facility plus 1 No ambulant facility plus small storage area.
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### Decision

1. The application for 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 the party applying for costs to incur unnecessary or wasted expense in the appeal process. Costs may be awarded to any party regardless of the outcome of the appeal.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal or with respect to procedural matters by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant considers that avoidable costs were incurred in an attempt to secure a determination of the application and, having failed to do so, in submitting the appeal.
5. The appeal application was validated back to 6 April 2020 in a letter dated 11 June 2020 indicating that the decision was due to be made by the 1 June 2020. It appears that the file was 'lost' for this entire period. On resuming processing activities, the Council agreed an extension with the applicant to allow for a decision to be made in July 2020. The applicant appealed on the grounds of the Council's failure to determine the application on 5 February 2021.
6. The Council refutes that it has behaved unreasonably by not processing the application within the statutory time period as it was seeking to avoid a refusal through proactive working in accordance with Paragraph 38 of the National Planning Policy Framework.

7. However, the correspondence that I have seen between the parties appears to suggest an inflexible position of the Council in relation to a very minor proposal to a building that, despite its status as a heritage asset, has a wider community use. Further, as one example of the delays, the lack of correspondence after December 2020 and the date of submission of the appeal (February 2021) suggests a lack of proactivity, despite the claim to the contrary.
8. The delay caused by the Council's failure to determine the application within the statutory framework was excessive and constitutes unreasonable behaviour. As I have found the proposal to be acceptable in respect of its effects on the character and appearance of the host building and Bishopsteignton Conservation Area, it also appears that the appeal was avoidable.
9. On the basis of the evidence before me, I conclude that the Council's unreasonable behaviour caused unnecessary expense on the part of the applicant in having to lodge and pursue an appeal. 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**

10. 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 Eddy Stephenson, 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.
11. 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.

*Hollie Nicholls*

INSPECTOR