



Costs Decision

Site visit made on 31 August 2021

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th September 2021

Costs application in relation to Appeal Ref: APP/N4720/W/21/3278657 7 Dealtry Road, Colton, Leeds LS15 9JW

- 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 Gemma Copley for a full award of costs against Leeds City 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 first floor side extension with dormers to front and rear.
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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 Guidance (PPG) sets out that costs may be awarded against a party who has behaved unreasonably and where the unreasonable behaviour has directly caused unnecessary or wasted expense in the appeal process. It further advises that a local planning authority is at risk of an award of costs if it unreasonably fails to determine planning applications, or if it prevents or delays development which should clearly be permitted.
3. The planning application was received by the Council on 13 May 2021, with the prescribed 8-week period for determination expiring on 8 July 2021. In its response to the costs application, the Council has cited pressures associated with the Covid-19 pandemic. I have been provided with a copy of the Council's acknowledgement letter dated 24 May 2021, which indicates that decisions on planning applications may be 'significantly delayed' due to Covid-19 restrictions. The applicant was therefore put on notice of potential delays.
4. Even so, the PPG sets out that if it is clear that a local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. Beyond the acknowledgement letter, there is no substantive evidence that the Council contacted the applicant to properly explain that there **would** be a delay in determining the planning application, or to request an extension of time. This was unreasonable behaviour on behalf of the Council.
5. It was the applicant who contacted the Council on 8 July 2021 in an attempt to establish when the application might be decided, but was advised that whilst the application had been validated, no case officer had been assigned and no timeframes could be given. Irrespective of whether alternative contact details were freely available or known to the applicant, I do not accept that the onus was on the applicant to chase the Council further. Consequently, although the

appeal was lodged only a day after the expiry of the 8-week period, I find it understandable that the applicant chose to do so given the considerable uncertainty which remained over the timescales and whether the Council had any concerns with the proposal.

6. Following notification of the appeal, the Council did contact the applicant on 14 July 2021 to advise that it would not contest the appeal. This was good appeal case management and no doubt limited the amount of work the applicant was put to at appeal. Nonetheless, the applicant had to submit an appeal against non-determination of the planning application to ascertain the views of the Council. In doing so, the applicant has incurred costs in the appeal process. Had there been timely communication from the Council, this appeal could potentially have been avoided as the applicant may not have chosen to appeal. Furthermore, as I have found, the described development is in accordance with the development plan and should therefore have been approved without delay.
7. On the basis of the evidence before me, I conclude that the Council's unreasonable behaviour, described above, 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 PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 Leeds City Council shall pay to Mrs Gemma Copley, 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.
9. The applicant is now invited to submit to Leeds City 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 Caines

INSPECTOR