
Costs Decision

Site visit made on 9 November 2021

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2021

Costs application in relation to Appeal Ref: APP/K0425/W/21/3277070 The Diary, Grove Farm, Grove Lane, Great Kimble, HP17 9TR

- 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 Stephen Davies for a full award of costs against Buckinghamshire 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 the addition of a summer room.
-

Decision

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

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.
3. The applicant states the Council has acted unreasonably in that they failed to determine the application despite repeated requests to do so and this has resulted in additional costs along with significant delays, inconvenience and stress. The rebuttal states that the application was submitted on 29 January and was due to be determined 27 March. The communication of 7 April offered no reason for the delay. The applicant's wife's role at the Council was made clear in the application. The application was only considered by committee after the appeal had been lodged and it should have been determined on time. The concerns about the proposal are debatable.
4. The Council respond by setting out the chronology of the process: the application was received and validated on 30 January 2021, and on the 15 June they were notified that an appeal for non-determination was lodged. It is also highlighted that as the appellants wife is a Council officer the application had to be determined by committee as required by its constitution. The case officer wrote on 7 April advising his recommendation would be refusal: the barn has been extended considerably and the proposed extension would not be in keeping with the existing building. A senior officer also wrote on May 20 explaining the reasons for the delay.
5. Whilst the case officer did not inform the applicant of his recommendation until after the 8-week target determination period, this was not substantially belated. Such a recommendation would not have been binding on the Council's decision, but it was nonetheless a very likely prediction of the outcome.

6. The case officer's concern is very succinct, but it tallies with much of the Council's eventual concern reflected in their appeal statement. Moreover, the subsequent e-mail in May from the senior officer elaborates their concern in more detail. This would have allowed understanding of their objection and did not prevent the applicant submitting a comprehensive appeal statement presenting contrary arguments.
7. After the appeal was lodged and acknowledged on the 15 June, the Council was not in a position to determine the application. Thereafter the Council's actions were not critical to the process as the decision was out of their hands. The committee's resolution was timely for the appeal process and the Council duly submitted their statement.
8. The Council were hamstrung by their own constitutional procedures and the elections, whilst this would have been frustrating it was unavoidable. Although they were not able to timely determine the application, they set out their concerns.
9. Whilst I did not agree in the main decision with the Council's conclusions, the issues raised were cogent and relevant planning considerations to the particular proposals and the specific character of the site and its surroundings. The concerns were also supported by the relevant policies.
10. For the above reasons I conclude that the Council has not acted unreasonably, and that the applicant has not been put to wasted time and expense in pursuing the appeal. Therefore, an award of costs as described in the Planning Practice Guidance is not justified.

John Longmuir

INSPECTOR