



Costs Decision

Site visit made on 6 September 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 06 December 2021

Costs application in relation to Appeal Ref: APP/Q0505/W/21/3274368 59 Gwydir Street, Cambridge, CB1 2LG

- 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 Ross for a full award of costs against Cambridge 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 development described as a 'loft conversion including rooflights and rear dormer. Rear second-floor extension'.

Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Applicant submits that the Respondent has acted unreasonably by preventing or delaying development by failing to make a determination on the planning application within the statutory timeframe, and thus having to apply for pre-application advice to engage the Respondent constructively in the process. As a matter of procedure, I cannot take account of the request for pre-application advice as I can only take into account the failure of the Respondent to issue a decision within the statutory timeframe and the subsequent appeal that the Applicant has submitted.
4. The PPG sets out scenarios when a local planning authority's handling of the planning application prior to the appeal may lead to an award of costs¹. It advises: *'If it is clear that the local planning authority will fail to determine an application within the time limits, it should give the Applicant a proper explanation. 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 period. If an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector or Secretary of State concludes that there were no substantive reasons to justify delaying the determination and better*

¹ PPG Paragraph: 048 Reference ID: 16-048-20140306

communication with the applicant would have enabled the appeal to be avoided altogether.'

5. The application dated the 7 April 2020 was registered on the 21 May 2020. The statutory period for determination was the 16 July 2020, however, the Respondent indicated that the target date for determination would be delayed due to *'implementation of a new IT system and the Covid-19 outbreak'*. An extension of time was agreed until the 17 August 2020, with a further extension of time agreed between the parties until the 5 November 2020.
6. It is evident that the delay in processing the application was attributed to the provision of amendments to the original scheme and the Respondent having to obtain consultees views on the revisions made to the proposed development.
7. Following the expiration of the final extension of time period, there is an absence of information from the Respondent as to the reasons for delay which subsequently led to the Applicant submitting the appeal on the grounds of the Respondent's failure to determine the application on the 4 May 2021.
8. The Respondent has not given a reason for its failure to determine the application within the relevant period. The delay caused by the Respondent's failure to determine the application within the statutory framework was excessive and constitutes unreasonable behaviour. However, the indication is that had the decision been made in a timely manner the Respondent would have refused the application and it is likely that the Applicant would have still had to appeal in any event.
9. It will be seen from the decision in the appeal that I reached a similar conclusion to the Respondent with regard to the impact of the proposal on the host dwelling and the character and appearance of the Mill Road Conservation Area. Having regard to this, whilst I consider that the Respondent acted unreasonably by delaying determination and I understand the sense of frustration which the delay and lack of communication would have caused for the Applicant, it did not delay development that should have been permitted having regard to the policies in the development plan, national policy and other material considerations. While the Respondent's behaviour was unreasonable, it did not cause the Applicant to incur wasted costs as the appeal was inevitable in any event.
10. On the basis of the evidence before me, I conclude that it has not been demonstrated that the Respondent's unreasonable behaviour caused unnecessary or wasted expense, as described in the PPG. Therefore, an award of costs is not justified.

E Brownless

INSPECTOR