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## Costs Decision

Site visit made on 13 December 2021

**by B Plenty BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 December 2021**

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### **Costs application in relation to Appeal Ref: APP/L2820/W/21/3276640 13 Long Breech, Mawsley, Kettering NN14 1TR**

- 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 Yvette Den-Dijver for a full award of costs against Kettering 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 a detached garage with cladding and ancillary habitable accommodation.
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### **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. A Council could be vulnerable to costs being awarded against it if prevents or delays development that should clearly be permitted. The appellant asserts that the Council had delayed making a decision without explanation or an indication of the outcome.
3. The Council failed to determine the application within the prescribed 8-week period. It has illustrated that delays took place for a number of reasons. These included requesting a parking plan from the applicant, undertaking reconsultation with interested parties and the impact of its transition to a Unitary Authority. The transition led to the termination and reacquisition of the Council's delegated authorities and the postponement of its Planning Committee meetings in April and May. The agent was made aware of these issues by emails in March, April and May.
4. The agent was also informed that by being an employee of the Council the proposal would have to be reported to the Committee under the Council's schedule of delegated authority.
5. The Council would have experienced clear difficulties in its decision-making capability while undergoing its transition. Furthermore, a request for further details and the need to reconsult would have inevitably delayed making a decision to some extent. I therefore find that the reasons for the delay are reasonable and do not amount to unreasonable behaviour.

6. With respect to the second issue, the Council is not obliged to advise the applicant of the recommendation it seeks to advance with respect to a proposed scheme. It is also not required to indicate the likely outcome of an application, although presumably this is sometimes possible. It would be particularly difficult to provide a useful prediction when the item is to be reported to a planning committee, such as would have been required in this case.
7. Consequently, it has not been demonstrated that there was unreasonable behaviour on the part of the Council that led the appellant to incur unnecessary or wasted expense. I conclude accordingly that an award of costs, as described in Planning Practice Guidance, has not been demonstrated.

*B Plenty*

INSPECTOR