



Costs Decision

Site visit made on 23 February 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2022

Costs application in relation to Appeal Ref: APP/H1033/W/21/3286181 Crossgate Farm, Crossgate Lane, Tintwistle SK13 1HP

- 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 Ms Deborah Cooper for a full award of costs against High Peak Borough Council.
 - The appeal was against the refusal of planning permission for 'Existing cow and silage shed to be changed to a kennel, playroom and hydrotherapy centre with reception and office'.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary and wasted expense in the appeal process.
3. The applicant's claim is that the Council failed to determine the planning application within a reasonable timescale and that it failed to provide updates during the process. The PPG is clear that costs cannot be claimed for the period during the determination of the planning application although behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded.
4. The application was submitted on 30 July 2020 and had an eight week determination period. I have been provided with various copies of correspondence sent between both parties from the start of the planning application up until it was refused. However, the correspondence is extremely patchy, with lengthy periods where I do not know what level of discussion, if any, took place between the parties. I do not therefore have a clear timeline of events.
5. From the limited evidence I have been provided with, it seems to me that both main parties had a hand in the delays at some point during the course of the planning application. Overall, however, I note that the applicant frequently requested an update on the progress of their application to which the Council's responses were protracted. Indeed, I note that the applicant raised an internal complaint with the Council and subsequently received an apology for the delays.

6. The application was refused on 1 November 2021, around 14 months after the original determination date. I understand the sense of frustration this delay would have had and find the considerable length of time the Council took to determine the planning application was unreasonable.
7. However, for an award of costs to succeed, such behaviour must also have resulted in unnecessary or wasted costs on the part of the applicant. Although it was delayed, the Council substantiated its position on the proposed development, which was supported by local and national policies. There were fundamental disagreements between the parties relating to the merits of the proposal therefore the appeal process was unavoidable. On that basis, whilst the Council's behaviour was unreasonable, it did not result in the applicant incurring unnecessary or wasted expense.
8. An award of costs cannot extend to compensation for indirect losses such as a loss of potential earnings caused by a delay in obtaining planning permission. Moreover, the applicant would have been able to appeal against the non-determination of the planning application after the initial eight week determination period had ended.
9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. A claim for costs is not therefore justified and accordingly it is refused.

H Ellison
INSPECTOR