
Costs Decision

Site visit made on 14 March 2022

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 25 March 2022

Costs application in relation to Appeal Ref: APP/Z4310/X/21/3285656 40 Rocastle Close, Liverpool L6 1PJ

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr R Rothschild of Rocastle Limited for a full award of costs against Liverpool 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 a certificate of lawful use or development for a rear single storey extension and rear dormer additions.
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Decision

1. The application for an award of costs is allowed in the terms set out in the Costs Order below.

Reasons

2. Paragraph: 048 Reference ID: 16-048-20140306 of the Planning Practice Guidance explains the circumstances in which costs may be awarded on procedural grounds. It advises that 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.
3. 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 communication with the applicant would have enabled the appeal to be avoided altogether. Such a decision would take into account any unreasonable behaviour on the part of the appellant in causing or adding to the delay.
4. Although I have not allowed the applicant's substantive appeal, I have received no reasons from the Council about why a decision was not reached within the relevant time limit or whether they would have granted a certificate as requested. If they would not have done, I do not know whether the applicant would have appealed anyway. As it was, the appeal was not made with any undue haste following the expiry of the statutory determination period: it was not made until nearly five months had expired from the submission of the application. The appellant has referred to a new IT system having been installed by the Council, but I have not heard from the Council about any delays that this may have given rise to.

5. In the circumstances I agree that the applicant has been put to the unnecessary cost of an appeal in order to obtain a determination on his application, and that this amounts to unreasonable behaviour by the Council causing unnecessary or wasted expense.

Costs Order

6. 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 Liverpool City Council shall pay to Mr R Rothschild of Rocastle Limited 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.
7. The applicant is now invited to submit to Liverpool 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.

Laura Renaudon

INSPECTOR