
Costs Decision

Site visit made on 29 March 2022

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 06 April 2022

Costs application in relation to Appeal Ref: APP/P0119/W/21/3288614 Bacon Cottage, The Plain, Hawkesbury Upton, S Glos, GL9 1AT

- 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 and Mrs Adrian Creeper for a full award of costs against South Gloucestershire 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 demolition of existing conservatory, construction new studio / home office, construction new entrance lobby.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 applicants submit that they received no cooperation from the Council from the time that they submitted the application and throughout the whole process, which has led to unnecessary costs incurred pursuing the appeal.
4. The information before me includes comments from third parties and other consultees, but there are no observations from the Council or anything to indicate its views on the proposal. The PPG advises that in any appeal against non-determination the Council should explain their reasons for not reaching a decision within the relevant time limit. There is no such explanation before me. The PPG also advises that a Council may be at risk of an award of costs if there were no substantive reasons to justify delaying the determination and better communication would have enabled the appeal to be avoided altogether.
5. Although I dismissed the appeal, I only found harm in relation to one element of the proposal. It would appear to be entirely possible that dialogue between the Council and the applicants regarding the impact of the proposal on the living conditions of the neighbouring dwellings could have resulted in a different outcome. Alternatively, faced with a refusal, the applicants may have decided to submit a modified version of the scheme to the Council rather than an appeal.

6. The PPG advises that an award against a Council may arise from its refusal to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal. I therefore find that the Council's behaviour has been unreasonable, and that this has resulted in unnecessary and wasted expense on the part of the applicants.

Costs Order

7. 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 South Gloucestershire Council shall pay to Mr and Mrs Adrian Creeper, 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.
8. The applicants are now invited to submit to South Gloucestershire 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.

A Tucker

INSPECTOR