



Costs Decision

Site visit made on 5 July 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2022

Costs application in relation to Appeal Ref: APP/G1630/W/22/3294458 Fieldview Bungalow, Tewkesbury Road, The Leigh, Gloucester GL19 4AA

- 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 A Baker (Pearman Briggs) for a full award of costs against Tewkesbury 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 extension to vehicle display area.
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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 costs may be awarded against a party who has behaved unreasonably and so caused the costs applicant to incur unnecessary expense in the appeal process. This application claims unreasonable behaviour by the Council in terms of the delay in determining the planning application leading to the appeal. It is also claimed that planning permission clearly should have been granted.
3. The PPG explains that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management duties and not to add to development costs through avoidable delay. The planning application leading to the appeal was submitted on 17 September 2021 with the initial prescribed 8 week determination period expiring on 12 November 2021. The appellant's agent sought an update from the Council's officers on the progress of the planning application on various dates from 19 November 2021 through to 30 January 2022. The only response from a Council officer was dated 23 November 2021 when it was explained that high caseloads were causing delays in determination timescales. However, no firm indication was provided on when the Council's decision would be issued. Also, there was no request to the appellant to agree an extension of time for the determination of the application.
4. In light of the lack of communication from the Council, it is understandable that the appellant lodged an appeal against non-determination of the planning application. The Council's response to this costs application explains that as well as increased workloads, the relevant department was experiencing staffing issues. While sympathetic to the Council's position, it is evident that the failure to determine the planning application, the failure to respond to the agent's emails and failure to seek an agreement on a revised determination deadline

date has resulted in the appellant's decision to lodge the appeal. When considered together, the Council's failures represent unreasonable behaviour.

5. However, it is apparent from the appeal submissions that even if the Council had determined the planning application, permission would have been refused. The appellant has contested the Council's concerns and there is no indication that revisions would have been made to the scheme in an attempt to address the objections. As such, the evidence before me suggests that an appeal would have been lodged even if the Council had decided the planning application. Therefore, I am not persuaded that the Council's behaviour has resulted in unnecessary costs being incurred.
6. Moreover, my appeal decision explains why I agree in part with the Council's concerns with the proposed development. As such, it is not clear that the Council should have granted planning permission. Unreasonable behaviour has not occurred in these regards.
7. For these reasons, I conclude that unreasonable behaviour resulting in wasted expense has not been demonstrated. Therefore, an award of costs is not justified

Jonathan Edwards

INSPECTOR