



Costs Decision

Site visit made on 22 June 2021

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31st August 2022

Costs application in relation to Appeal Ref: APP/J1535/W/21/3285309 Shoeluck Cottages, Church Lane, Lambourne, Romford RM4 1AB

- 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 Simon Wells (TORPC) for a full award of costs against Epping Forest District Council.
 - The appeal was against a failure to give notice within the prescribed period of a decision on an application for planning permission for Demolition of existing cottages and erection of replacement dwelling.'
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Decision

1. The application for a full award of costs is allowed.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Council failed to determine the planning application within the prescribed period. It also failed to provide any justification for the delay. Furthermore, the Council only provided a single reason for refusal without any supporting evidence to substantiate its position in this regard.
4. As a result, the Council has acted unreasonably on both procedural and substantive grounds.
5. The PPG states:

'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.'

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.'

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6. Whilst I have not allowed the appeal, I have not dismissed it or found any harm on the grounds alleged by the Council. Given the failure of the Council to substantiate those grounds it cannot be concluded that the application was refused on a reasonable basis. Indeed, had the Council engaged effectively with the applicant then this appeal could have been avoided.

Conclusion

7. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 the Epping Forest District Council shall pay to Simon Wells (TORPC), the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to Epping Forest District 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.