



Costs Decision

Site visit made on 1 November 2022

by V Simpson BSc (Hons) MSc MRTPI

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

Decision date: 13 December 2022

Costs application in relation to Appeal Ref: APP/Y9507/W/22/3292952 Oakleaves, School Lane, Lodsworth GU28 9DH

- 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 Michael Fletcher for a full award of costs against the South Downs National Park Authority (the NPA).
 - The appeal was against the failure of the council to determine the application for planning permission for the extension of existing bungalow to provide first floor accommodation and construction of a new garage building.
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Decision

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

Reasons

2. Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant considers that the NPA exhibited unreasonable behaviour by not following decision making procedures; not making a decision within time limits; and, not following approved policy. They also indicate that the NPA were unreasonable by refusing to respond to correspondence and communication and to take heed of previous appeal decisions.
4. Paragraph 48 of the PPG¹ indicates that 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.
5. The planning application submitted by the appellant was dated 24th November 2021. No decision was reached on that application within the prescribed eight week period. The appeal form was dated 16th February 2022. Although the NPA indicate that they had communicated with the appellant via e-mail on 31st January 2022, copies of this correspondence have not been provided. Even if such correspondence took place, and contained an explanation for why they would not be able to reach a decision within the relevant time limit, the Council's e-mail would have been after the expiry of the prescribed period.

¹ Paragraph: 048 Reference ID: 16-048-20140306

6. Furthermore, it has not been satisfactorily demonstrated that the NPA entered into communications with the applicant regarding the development proposals, between the date of the prescribed period and the date of the planning appeal form i.e. 16th February 2021.
7. In indicating within their appeal documentation that they would have conditionally approved the planning application, the NPA had no substantive reasons for withholding planning permission. Furthermore, better and more timely communication from the NPA to the applicant prior to either the prescribed period or submission of the appeal, might have prevented an appeal from being necessary.
8. Notwithstanding that the NPA sought to work pro-actively with the applicant post the submission of the appeal, this communication occurred after the appellant had already incurred costs associated with the preparation and submission of the appeal.
9. I therefore find that substantive unreasonable behaviour, resulting in unnecessary expense during the appeal process has been demonstrated.

Costs Order

10. 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 Downs National Park Authority shall pay to Mr Michael Fletcher, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Costs Office if not agreed.
11. The applicant is now invited to submit to South Downs National Park Authority, details of those costs with a view to reaching agreement as to the amount.

V Simpson

INSPECTOR