



Costs Decision

Site visit made on 10 January 2023

by V Simpson BSc (Hons) MSc MRTPI

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

Decision date: 13 February 2023

Costs application in relation to Appeal Ref: APP/J0405/W/22/3302694 The Grain Store, Winslow Road, Granborough MK18 3NQ

- 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 C Millard for a full award of costs against Buckinghamshire Council.
 - The appeal was against the failure of the council to determine the application for planning permission for the removal of existing structures and the erection of a single storey workshop and reception building and ancillary works.
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Decision

1. The application for an award of costs is refused.

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 submits that the Council exhibited unreasonable behaviour by not making a decision within the prescribed time limits. They further indicate that this behaviour has caused them to be put to unnecessary and wasted expense in the appeal. The Council has not provided a rebuttal to the cost claim.
4. Paragraph 48 of the PPG¹ indicates that in any appeal against non-determination, the Council should explain its reasons for not reaching a decision within the relevant time limit. No such information has been provided. However, I note that the applicant submitted additional information after the prescribed period had lapsed. Furthermore, the evidence indicates that there was active communication between the applicant and the Council in connection with the planning application up until April 2022, which was several months after the prescribed period had lapsed.
5. I appreciate that delays in the processing of other planning applications on the site have caused considerable consternation to the appellant. However, the effects of delays in the handing of applications prior to the submission of the application to which the appeal relates, and of other applications, are outside of the scope of consideration of this costs decision.

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

6. The PPG indicates that a Local Planning Authority (LPA) is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal. Making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, are other reasons that may put a LPA at risk of an award of costs. In respect of the areas of dispute between the applicant and the Council, I have found that the proposed development complies with the provisions of the development plan. Whilst I have arrived at an alternative view from that of the Council in respect of the development proposal, the Council have nonetheless provided complete, precise and specific reasons which are based upon development plan policies, for why it would have refused the application.
7. I understand the frustration felt by the appellant as a result of the Council's failure to determine the application in a timely manner, and by being unable to effectively communicate with the Council regarding the planning application after 29 April 2022. However, given that the case officer had already indicated that the application could not be supported, it is unlikely that further communications would have resulted in an appeal being unnecessary.
8. I accept that the appellant may have incurred additional costs associated with the operation of their antique business from 2 separate sites whilst the application was being considered by the Council. However, even if I had found unreasonable behaviour on the part of the Council which had caused the applicant to incur unnecessary expense in the appeal process, a cost award cannot extend to compensation for indirect costs or losses resulting from a delay in obtaining planning permission.
9. Better and more timely communication from the Council to the applicant prior to either the end of the prescribed period or the submission of the appeal may have encouraged the applicant to submit an earlier appeal. However, on the evidence before me it would not have prevented such an appeal from being necessary.
10. I therefore find that substantive unreasonable behaviour by the Council, resulting in unnecessary expense to the applicant during the appeal process has not been demonstrated. An award of costs is therefore not justified.

V Simpson

INSPECTOR