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## Costs Decision

Site visit made on 28 February 2023

**by S Harrington MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 March 2023**

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### **Costs application in relation to Appeal Ref: APP/D0840/W/22/3301667 Field north of 31 Lower Boscaswell, Pendeen TR19 7EP.**

- 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 Jon Manser for a full award of costs against Cornwall Council.
  - The appeal was against a failure to give notice within the prescribed period of a decision on an application for outline planning permission for the construction of 4 dwellings.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG gives examples of unreasonable behaviour by local planning authorities including failure to co-operate, delay in providing information or other failure to adhere to deadlines. It is also clarified in the PPG that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, though behaviour and actions at the time of the planning application can be taken into account in the consideration of whether costs should be awarded or not.
4. The applicant claims that the Council has exhibited unreasonable behaviour that made the appeal necessary in the first place due to delays in making a decision and a failure to enter into dialogue with the applicant, which could result in reconsideration or revision of the proposal.
5. The evidence before me demonstrates that the planning application was submitted on 05 April 2022 and validated from this date on the 11 April 2022. Following dialogue in April 2022 in relation to the site notice, the applicant contacted the Council on the 23 May 2022 providing comment on representations received. An automated response was received from the Council, stating the case officer was out of the office until 30<sup>th</sup> May 2022. However, on this date the case officer emailed the applicant stating the application was not going to receive officer support, with brief reasoning and requesting an extension of time to prepare a final report, if the application were not withdrawn.

6. The applicant then agreed an extension of time and requested further dialogue in order to attempt to seek a positive resolution. Following the lapse of the extension of time, and further correspondence with the Council, when it became clear the case officer was away from the office, the appeal was lodged.
7. Notwithstanding the reasons for not issuing a decision within the agreed extension of time, it is unclear why the Council were unable to determine the application within the statutory time period. However, an extension of time was agreed, and the Council did enter into dialogue through the process and provide clear indication and reasoning for its likely recommendation.
8. I note that the Council's allocated case officer had to take unplanned absence following the agreed extension of time, and the reasons for not re-allocating the case given the stage the application had reached. Given the time required for a new case officer to become familiar with the proposal, this is not unreasonable in the particular circumstances.
9. I also find no substantive evidence that the appellant incurred any additional expense as a result of this delay, since, on the evidence of the Council's sustained objections to the proposal, it is likely that any decision would have led to an appeal in any event. Moreover, the Council did justify its eventual position in relation to the proposal and the Council's actions did not prevent or delay development which should have been permitted.

### **Conclusion**

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*S Harrington*

INSPECTOR