



## Costs Decision

Site Visit made on 9 May 2023

**by H Wilkinson BSc (Hons) MSc MRTPI**

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

**Decision date: 23 June 2023**

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### **Costs application in relation to Appeal Ref: APP/J0405/W/22/3304898 106 Stonehill House, Churchway, Haddenham HP17 8DT**

- 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 Mrs M Johnston of The Abbeyfield Haddenham Society Limited for a full award of costs against Buckinghamshire Council - North Area (Aylesbury).
  - The appeal was against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission for a single storey side extension, Ref 21/04884/APP is dated 13 December 2021.
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### **Decision**

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

### **Reasons**

2. Irrespective of the outcome of appeal, the Planning Practice Guidance (PPG) indicates that 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. In failing to determine the planning application within the statutory time period together with the lack of communication, the applicant submits that the Council has exhibited unreasonable behaviour.
3. The planning application is dated 13 December 2021 and was registered by the local planning authority on 23 December 2021. The statutory determination deadline was 17 February 2022. Following many unsuccessful attempts to secure an update from the local planning authority, an appeal against non-determination was lodged by the applicant in August 2022.
4. The Council explains that the failure to determine the planning application within the statutory timescale was due to a high number of planning applications and vacant staff positions within the Authority. Whilst acknowledging their shortcomings in communication, the Council indicates that the applicant was advised of the resource pressures faced by the Authority in their correspondence of 8 March 2022. However, there is no clear evidence to demonstrate that a substantive update in relation to the specific planning application was given at this time or indeed an extension of time requested by the Council.
5. The Council in responding to the costs application further submits that the applicant was able to monitor the progress of the application on the Council's website. Whilst I acknowledge that this would have enabled the applicant to

view the consultation responses received, it would have provided little insight into the likely timescale for determination.

6. Where it is clear that the local planning authority will fail to determine an application within the time limits, the PPG explains that it should give the applicant a proper explanation. Additionally, in any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit. If an appeal in such cases is allowed, the PPG advises that 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<sup>1</sup>.
7. I recognise that the resource pressures faced by the Council in processing the planning application were unfortunate. However, I am not persuaded that these factors provided a substantive reason for delaying the determination of the planning application. In this instance, the failure to determine the application within the prescribed period compounded by the lack of proactive engagement resulted in the applicant having to resort to the appeal process. By their own admission, the Council indicate that permission would have been granted had it been determined by them and they have not contested the appeal. This leads me to the view that unnecessary and wasted expense has been incurred by the applicant in pursuing the appeal, where the planning application could otherwise have been approved by the Council.
8. Therefore, whilst it is noted that the Council communicated their lack of objection to the appeal at the earliest opportunity, for the reasons set out above, I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG has been demonstrated and that a full award of costs is justified.

### **Costs Order**

9. 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 Buckinghamshire Council - North Area (Aylesbury) shall pay to The Abbeyfield Haddenham Society Limited, the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to Buckinghamshire Council - North Area (Aylesbury), to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*H Wilkinson*

INSPECTOR

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<sup>1</sup> Paragraph: 048 Reference ID: 16-048-20140306