



Costs Decision

Site visit made on 6 June 2023

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14TH JULY 2023

Costs application in relation to Appeal Ref: APP/B1415/X/22/3305027 2 Linton Road, Hastings, East Sussex TN34 1TN

- The application is made under the Town and Country Planning Act 1990 (the Act), sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Thomas Branczyk for a full award of costs against Hastings Borough Council.
 - The appeal was against the refusal of a certificate of lawful use or development for development described in the application form as: 'continued use of self-contained unit at 2 Linton Road for more than 4 years'.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. It is claimed that the Council acted unreasonably and caused the appellant unnecessary or wasted expense in the appeal process on account of poor decision making and time wasting.
4. The Council's decision referred to insufficient evidence being provided to convince it that the use of the appeal building was lawful, despite it following the same misunderstanding of section 171B of the Act as the appellant. A period of nearly 4 months passed between the submission of the application and the issue of the Council's decision.
5. Although it took the Council a significant period of time to issue its decision, the applicant was entitled to lodge an appeal against the non-determination of the application during that period and it has not been demonstrated that this resulted in the appellant incurring any unnecessary or wasted expense. It is not clear whether any correspondence was exchanged between the Council and the appellant during that period, which may have delayed the Council's decision.
6. Although the Council was considering the application with the incorrect part of section 171B of the Act in mind, as directed by the appellant's covering letter, it found a gap in the appellant's evidence. The Council was therefore entitled to reach its decision that insufficient evidence had been provided to demonstrate that the use of the appeal building was lawful.

7. The Council's decision to refuse the application due to what it perceived to be insufficient evidence to support the appellant's claims did not therefore constitute unreasonable behaviour. I am also unconvinced, on the evidence provided, that the period of time that it took the Council to issue a decision was a result of unreasonable 'time wasting' on its part.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Accordingly, an award of costs is not justified.

L Douglas

INSPECTOR