



Costs Decision

Site visit made on 3 October 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2023

**Costs application in relation to Appeal Ref: APP/U2750/W/23/3320801
Appletree Cottage, Lovesome Hill Loop Road, Lovesome Hill, North
Yorkshire DL6 2PB**

- 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 Ms B Noda for a full award of costs against Hambleton District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the change of use of redundant agricultural building to holiday accommodation without complying with a condition attached to planning permission Ref 22/02609/MRC, dated 21 February 2023.
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Decision

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

Preliminary Matters

2. On 1 April 2023 North Yorkshire Council was created and is now the Local Planning Authority (LPA) for the area previously covered by Hambleton District Council. The award is necessarily made against its replacement as LPA, North Yorkshire Council.

Reasons

3. 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. Unreasonable behaviour may be procedural and/or substantive.
4. In summary, the applicant argues that the Council has acted unreasonably by failing to approve a proposal that ought to have been approved due to its lack of policy conflict as shown in its statement of case; failing to provide evidence to substantiate why the proposal should not progress; and not reviewing the case promptly following the lodging of an appeal against non-determination as part of sensible ongoing case management.
5. The applicant refers to the earlier application¹ submitted to remove the occupancy condition that had been imposed on the governing permission. The PPG states that costs applications may relate to events before the appeal was brought, but costs that are unrelated to the appeal are ineligible. Therefore, while behaviour and actions at the time of the planning application can be

¹ Reference 22/02609/MRC

taken into account, I have limited my consideration to the actions of the Council in dealing with the application that is the subject of this appeal.

6. The PPG gives examples of unreasonable behaviour by LPAs. This includes failing to determine planning applications and delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations. The PPG states that, in any appeal against non-determination, the LPA 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. In such cases, if an appeal is allowed, the LPA may be at risk of an award of costs if 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.
7. This appeal has arisen from the Council's failure to issue a decision. It is clear from the evidence before me that the Council failed to do this within the relevant prescribed statutory time period. I note that an extension of time was requested but declined, which is the applicant's right to do so.
8. I appreciate that the Council has been through a significant period of restructure arising from Local Government re-organisation. The stated effect on staffing and workloads which may well have contributed to the failure of the Council to make a decision is appreciated. However, it does not directly relate to matters that arose with this planning application.
9. Since the appeal was submitted, the Council has engaged in the process by setting out the policy position it would have taken and planning considerations it would have made had it still had jurisdiction and reported to the Planning Committee. The Council's statement of case identifies a lack of conflict with the development plan, a position I have concurred with.
10. In my view, the appeal could have been avoided with better communication with the applicant and timeliness. There was no substantiated, justifiable reason to delay the determination of the planning application. In addition, I have found no reason to withhold this particular planning permission. Therefore, unreasonable behaviour from the Council as described in the PPG, is evident. Importantly, the applicant has incurred unnecessary and wasted expense in terms of the preparation and submission of the appeal.

Costs Order

11. 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 North Yorkshire Council shall pay to Ms B Noda, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to North Yorkshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

F Wilkinson

INSPECTOR