



Costs Decision

Site visit made on 6 September 2023

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2023

Costs application in relation to Appeal Ref: APP/W0530/W/22/3292594 Mills Lane, Longstanton, Cambridge CB24 3DT

- 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 Andrew Taylor of Resolute Estates Ltd for a full award of costs against South Cambridgeshire 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 outline planning permission for 6 self-build dwellings.
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Decision

1. The application is refused.

Reasons

2. The Council did not comment on the costs application but included comments in its appeal statement with regard to its failure to issue a decision and the reasons for this. I have had regard to those comments.
3. The Planning Practice Guidance 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.
4. The applicant states that following submission of his planning application in October 2020, it was discussed at a meeting of the senior management and leader of the Council in February 2021. Following that meeting the application was not determined. The applicant is of the view that this sequence demonstrates that the Council deliberately failed to issue its decision on the application.
5. As a result of the Council's failure to issue its decision, the applicant states that he incurred expense in preparing amended schemes. He also states that the time taken in preparing for the appeal was greater than would otherwise have been necessary because the Council's decision was not available.
6. The applicant further states that the Council has been uncooperative, by not responding to his requests to discuss the application. He has alleged in his appeal submissions that the Conservation Area (CA) designation was unlawfully constituted. He submits that information provided by the Council with regard to the CA Appraisal is manifestly inaccurate and untrue.
7. In its appeal statement¹ the Council expressed regret that it failed to issue its

¹ Council's statement paragraphs 7.52 and 7.54

- decision in a timely manner. The Council has stated that this was due to a high workload and resource issues. The Council stated that it tried to work with the applicant to find a solution. It allowed the applicant to amend the proposed development during the course of the application.
8. The Council also provided its reasons as to why permission would not have been granted had the application been determined within the relevant period. Those reasons were supported by the explanation of its case in its appeal statement.
 9. A period of over 6 months elapsed from the submission of the application in October 2020 to the submission of the amended plans in May 2021. The amended scheme was submitted in response to concerns that had been expressed by the planning officer.
 10. Following this, there was a period of over 8 months from submission of the amended scheme to submission of the appeal against non-determination in February 2022. Although the Council has explained that it had resourcing issues and a high workload, this does not fully explain the reasons for its failure to issue a decision given the significant period of time that elapsed.
 11. However, had the Council issued its decision, this would have been one of refusal, leaving the applicant with the option of submitting an appeal. I have found similarly to the Council in my decision on the appeal. On this basis there was no unreasonable behaviour on the part of the Council regarding its putative decision. Although the delay in the Council's consideration of the application has not been fully explained, its non-determination did not result in the applicant incurring unnecessary or wasted expense in the appeal process.
 12. While the Council's putative reasons were not available to the applicant when he submitted the appeal, it has not been demonstrated that wasted work was necessary on any specific topic that was not covered by the putative reasons. The amended scheme was prepared in response to comments made by the planning officer and was not therefore work done in connection with the appeal.
 13. It is evident from the appeal submission that discussions took place between the applicant and the Council prior to the submission of the amended scheme. Although I note that the applicant experienced difficulties in his later attempts to discuss the application, this does not necessarily show that the Council behaved unreasonably.
 14. I have found similarly to the previous Inspector in my decision on the appeal with regard to the designation of the CA and that irrespective of the applicant's arguments, the CA is designated as a matter of fact. It has not been demonstrated that the CA Appraisal or any other information provided by the Council is manifestly inaccurate or untrue.
 15. For the reasons given, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Nick Palmer

INSPECTOR