

Costs Decision

Site visit made on 5 September 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2023

Costs application in relation to Appeal Ref: APP/W0340/W/22/3304951 Lake House, West Woodhay, Newbury RG20 0BU

- 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 C Brown for a full award of costs against West Berkshire 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 installation of two ponds and retrospective permission for the retention of an existing pond.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. The national Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs can only be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG advises that cost awards may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
3. The applicant is seeking an award of costs on procedural and substantive grounds. The applicant considers that the Council have acted unreasonably by delaying development which in their view should clearly be permitted and accords with the development plan, national planning policy and other material considerations. The applicant also considers that the Council failed to produce evidence to substantiate its case and that the Council failed to review its case promptly following the lodging of the appeal.
4. The Council states that the delay in processing the application was due to limited resources and very high workloads, as well as the submission of additional information by the applicant beyond the agreed extension of time. The planning application was submitted to the Council on 1 November 2021. The Council advises that following the expiration of the agreed extension of time, the applicant submitted additional information between March and June 2022, which included technical information relating to hydrogeological and arboricultural matters. The applicant requested an update from the Case Officer on several occasions in July and August 2022 and did not receive a response. The applicant subsequently submitted an appeal on the grounds of non-determination.

5. While the Council has submitted a Statement of Case, within the required timescale, the Council raises no objections to the development, subject to the imposition of conditions. I appreciate that the Council has limited resources; however, there are no substantive reasons before me to justify the Council's complete lack of response to the applicant or for the delay in the determination of the planning application. Better communication with the applicant would have enabled the appeal to be avoided altogether.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

7. 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 West Berkshire Council shall pay to Mr C Brown, 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.
8. The applicant is now invited to submit to the 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.

A James

INSPECTOR