



Costs Decision

Site visit made on 14 November 2023

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2023

Costs application in relation to Appeal Ref: APP/R0660/W/23/3319616 Land off Merelake Road, Alsager, Cheshire ST7 1UF

- 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 Ben Wallbanks for a full award of costs against Cheshire East 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 a new stable block.
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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. In this case, the applicant asserts that the Council behaved unreasonably by failing to make a decision within the required timescales. An extension of time was requested and agreed, but a decision was still not made, prompting the appeal against non-determination to be lodged.
4. The Council has provided copies of the letters which were sent to the applicant's agent acknowledging receipt of the application, and advising that it had been validated. Both letters clearly state that the Council had a backlog of planning applications, and that the average time for determining applications was 4-6 months. The second letter, sent in August 2022, explains that the backlog was due to the ongoing disruption caused by the COVID pandemic and a significant increase in applications.
5. The PPG says that where it is clear a local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation (Paragraph: 048 Reference ID: 16-048-20140306). In this case, the applicant was made aware from the outset that the Council was unlikely to be able to make a decision within the expected timescales. This situation was less than satisfactory, but given the circumstances at the time, the delay in decision making does not represent unreasonable behaviour on behalf of the Council.
6. The planning officer's report suggests that the Council would have refused the application, had the appeal not been submitted before it had the chance to. As

set out in the decision letter, I agree with the Council's assessment of the proposal, and have concluded that the appeal should not be allowed.

7. The applicant has indicated that, had a decision been issued, the appeal may not have been made, regardless of the outcome. That may be the case, but the applicant chose to submit the appeal anyway, before any decision was made. In choosing to appeal against non-determination, the applicant will have anticipated that some level of costs would be incurred. However, given the very limited information provided in support of the proposal, the costs associated with the appeal will have been minimal.
8. I conclude that unreasonable behaviour leading to wasted or unnecessary expense at the appeal stage has not been demonstrated. The application for costs is therefore refused.

R Morgan

INSPECTOR