



Costs Decision

Site visit made on 19 December 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th January 2024

Costs application in relation to Appeal Ref: APP/U2750/W/23/3329543 Bumble Barn, Green Lane, Monk Fryston, Selby, North Yorkshire, LS25 5EJ

- 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 P Smith for a full award of costs against North Yorkshire 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 erection of a general purpose agricultural building for the secure storage of agricultural machinery, fodder and seasonal housing of livestock.

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. The applicant considers the Council has behaved unreasonably by not determining the application within the agreed time frame as there were no substantive reasons to justify the delay and were not forthcoming with responses to requests for updates which could have avoided the need for the appeal.
4. Paragraph 48 of the PPG¹ indicates that in any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and that they may be at risk of an award of costs if it is concluded that 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. Such a decision would take into account any unreasonable behaviour on the part of the appellant in causing or adding to the delay.
5. The planning application was dated 29 March 2023 and a decision was due by 24 May 2023. There is only limited evidence before me as to the extent of correspondence between the parties. This indicates that the applicant contacted the Council's customer service centre on 14 July 2023, and the Council responded on 17 July 2023. This response set out that the Council had capacity issues, and that it had been considered necessary to consult the Environment Agency. It proposed an extension of time to allow for a response to be

¹ Appeals Paragraph: 048 Reference ID: 16-048-20140306 Revision date: 06 03 2014

received. The response to this email is dated 14 August 2023, querying if there had been a response to the consultation and setting out the appellant's view that this was not an issue that necessitated a delay in determining the application as the matter could be adequately addressed. The next action brought to my attention is the submission of the appeal against non-determination on 14 September 2023.

6. The Council contends that the applicant could have kept track of the progress of the application through its public access system, that it was not possible to issue the decision without the comments of the Environment Agency (EA) and that had the appellant agreed an extension of time, the revised target date would have allowed the application to be prioritised.
7. I am mindful that many Councils and statutory consultees are facing resourcing challenges at the present time, and that there is a balance to be struck between addressing issues and determining applications in a timely fashion. While I have allowed the appeal, the comments of the EA were important in understanding the issue of the nitrogen-vulnerable zone. As such, I find that the Council's behaviour in seeking to address this issue was not unreasonable. There is no substantive evidence before me as to how effective the public access system would be in setting out the progress of the application. The lack of an extension of time is not a reason to fail to determine an application. However, neither of these factors appears to be the substantive reason the decision was not issued.

Conclusion

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

J Downs

INSPECTOR