



Costs Decision

Site visit made on 10 January 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Costs application in relation to Appeal Ref: APP/M3645/W/23/3324729 Land adjacent to Shaw Road, Tatsfield

- 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 Nick Gregory for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for erection of 1x detached dwelling as limited infilling within a village.
-

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. However, 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. Costs cannot be claimed for the period during the determination of a planning application. However, behaviour and actions at the time of a planning application can be taken into account in consideration of whether or not costs should be awarded.
3. The applicant contends that whilst the determination date for the planning application was 6 December 2022, by late June 2023, the application had not been determined. The applicant indicates that during this period the Council provided no feedback on the proposal or any communication to indicate when the application would be reviewed. Consequently, the applicant submitted an appeal against non-determination on 25 June 2023.
4. The PPG advises that if it is clear that the local planning authority will fail to determine the application within the time limits it should give the applicant a proper explanation. It says in an appeal against non-determination, the local planning authority 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. If an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector concludes 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.
5. Contrary to this advice, I have no substantive evidence before me which indicates that the Council provided the applicant with a proper explanation why

the application could not be determined in a timely manner. Neither has a clear explanation for the delays been provided during the appeal process. This indicates to me that the Council exhibited poor communication with the applicant.

6. The Council's response focusses on the previous planning application and appeal at the site and the planning merits of the appeal scheme. However, this does not provide justification for the considerable period of delay and lack of communication.
7. As is evident from my appeal decision, I have come to a different overall conclusion and allowed the appeal. In light of these circumstances, I find that there was no substantive reason that justified the delay in determining the application. The Council's actions amount to unreasonable behaviour and the appellant has incurred unnecessary and wasted expense by having to appeal against the non-determination of the application.

Conclusion

8. In conclusion, 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

9. 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 Tandridge District Council shall pay Mr Nick Gregory the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to Tandridge District 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

B Pattison

INSPECTOR