



Costs Decisions

Site visit made on 29 February 2024

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 April 2024

Costs application in relation to Appeal Ref: APP/G1630/W/23/3320446 Oaklands, Gloucester Road, Staverton, Cheltenham GL51 0TF

- 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 Shaun Dean Gorman for a full award of costs against Tewkesbury Borough 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 provision of an agricultural building with a reduced area of hardstanding and re-surfaced access track (including part retention of works) and removal of 2 small brick buildings, removal of all external lighting and CCTV equipment and removal of 2.2 metre close boarded fencing that encloses the existing yard to be replaced with new 1.2m high post and rail fencing.
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Costs application in relation to Appeal Ref: APP/G1630/W/23/3320447 Oaklands, Gloucester Road, Staverton, Cheltenham GL51 0TF

- 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 Shaun Dean Gorman for a full award of costs against Tewkesbury Borough 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 the erection of walling, piers, gates, railings and fencing along the site frontage with the B4063, reduced from 2.2m to a height of 1.5m (1.2m walls and 0.3m railing above (including part retention of works)).
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Costs application in relation to Appeal Ref: APP/G1630/W/23/3320448 Oaklands, Gloucester Road, Staverton, Cheltenham GL51 0TF

- 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 Shaun Dean Gorman for a full award of costs against Tewkesbury Borough 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 erection of brick walling, railings, close boarded fencing and gates around the perimeter edge of the residential property known as Oaklands, reduced from 2.2m to maximum height of 1.5m (1.2m walling and 0.3m railings) and removal of all external lighting within the residential curtilage of the property (including part retention of works).
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Decision

1. The applications for an award of costs are dismissed.

Reasons

2. 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. The PPG advises that if a Council will fail to determine an application within the time limits, it should give the applicant a proper explanation for not doing so. In any appeal against non-determination, the Council 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.
3. The applicant claims that the Council in failing to determine the application necessitated the appeals which in turn has incurred unnecessary and wasted expense for them.
4. The Council has acknowledged the delay in determining the applications and has apologised for it. The planning applications were submitted on the 13 October 2022 but were not validated until April 2023, some 6 months after they were submitted. Appeals for the applications were validated in July 2023.
5. As part of the appeal the Council has outlined why planning permission would not have been granted had the application been determined within the relevant period. In dismissing the appeal I agree with the overall findings of the Council. Consequently, whilst the Council's communication and handling of the applications could have been significantly improved, had they made decisions on the applications within the statutory timescale the applications would have been refused and appeals would have resulted.
6. The delays of the Council in determining the applications did not lead to appeals that could have been avoided and did not prevent or delay developments which should clearly have been permitted. The appeals could not have been avoided and it follows that the applicant has not been put to unnecessary expense in the appeal process.
7. The applicant has referred to a costs application in support of their case. Whilst there are similarities in terms of Council delays in determining the applications, the full details of the case are different to the ones before me and therefore not directly comparable. Each case is determined on its own merits and that is what I have done.
8. I find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated and that an award of costs is not justified in this case.

K Ford

INSPECTOR