



---

## Costs Decision

Site visit made on 22 May 2024

**by K Savage BA(Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3<sup>rd</sup> June 2024**

---

### **Costs application in relation to Appeal Ref: APP/W3005/W/23/3334652 Whiteborough Cottage, 261 Wild Hill, Teversal, Nottinghamshire NG17 3JF**

- 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 Paul Brewell for a full award of costs against Ashfield District Council.
  - The appeal was against the failure of the Council to issue a notice of its decision within the prescribed period on an application for planning permission for an agricultural storage building for agricultural purposes only without complying with a condition attached to planning permission Ref APP/W3005/W/22/3290188 (Council Ref V/2021/0756), dated 7 September 2022.
- 

### **Decision**

1. The application for a full 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 PPG adds that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, but behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded. It is further set out that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation.
4. The applicant's claim, in short, is dissatisfaction at the length of time taken by the Council to reach a decision, and with the resulting 'difficult and expensive situation' this put the applicant in. This appears to refer to the applicant having to proceed with works ahead of a decision to make the building weatherproof for the winter months, though I have no further evidence in this respect.
5. The Council points out that no part of the claim relates to costs incurred at the appeal stage. It explains the timeline of the application, including delays incurred initially due to flaws in the application and the absence of the case officer with illness, then to an oversight where public consultation was not immediately undertaken and a further administrative delay in rectifying this. Correspondence from the planning officer on 7 December 2023 indicated that a favourable recommendation would have been made on the application had the appeal not been lodged earlier that same day.

6. The evidence before me indicates that the Council did explain the delays to the applicant in emails dated 3 November, 24 November, 4 December and 6 December 2023. Whilst I understand the delays experienced by the applicant will have been frustrating, the Council nevertheless explained its reasons for not reaching a decision within the prescribed time period.
7. Moreover, regardless of how straightforward the applicant considered the application to be, it was incumbent on the Council to ensure the application was processed properly. This included initially seeking clarification from the applicant to ensure the Council had the correct information and then undertaking statutory public consultation before it could make a decision. Although delays occurred, at the time the appeal was lodged, the Council had informed the applicant of the need for a consultation period, the end date of that period, and sought to agree an extension of time to 5 January 2024.
8. The applicant did not allow this process to run its course, but instead elected to appeal. In the circumstances, the appeal was not the only recourse left to the applicant, but was an option taken voluntarily. Moreover, the evidence indicates that the appeal was made under the mistaken belief that it could run concurrently with the Council's ongoing assessment of the application. That was a fundamental misunderstanding of the appeal process for which the Council cannot be held responsible.
9. Ultimately, the applicant's decision to lodge the appeal was borne out of frustration with the Council's development management processes. However, the evidence before me does not indicate that the Council sought to deliberately delay the application, and whilst the delays which did occur were unfortunate, the Council had provided the applicant with a plan of action and a timeline for determining the application as soon as it was legally allowed to. It was the applicant's choice not to follow this process to its conclusion.
10. Therefore, notwithstanding that the Council did not ultimately contest the substantive matters of the appeal, I do not find that the Council's actions during the application period amount to unreasonable behaviour. There is also no evidence of the Council failing to adhere to any procedural requirements at the appeal stage.

## **Conclusion**

11. For these reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. Therefore, an award of costs is not justified and no award is made.

*K. Savage*

INSPECTOR