



Costs Decision

Site visit made on 4 June 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2024

Costs application in relation to Appeal Ref: APP/J3720/W/24/3337652 Bungalow Farm Site, London Road, Kitebrook, Little Compton, Warwickshire GL56 0PG

- 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 & Mrs R Dunham for a full award of costs against Stratford-on-Avon District 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 demolition of existing barns and removal of mobile home and erection of one self-build two-storey dwelling with attached double garage.

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.

Whether unreasonable behaviour occurred

3. Paragraph 048 of the PPG describes circumstances when a local planning authority's handling of a planning application prior to the appeal may lead to an award of costs. It states 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. The applicant alleges unreasonable behaviour occurred as its requests for such explanation were not fulfilled.
4. The Council failed to determine the application by the statutory deadline. In an email dated 04 May 2023, the case officer explained the delay was a result of excess workload. In June 2023, the appellant submitted a bat survey which necessitated both consultation with an ecology officer and additional report writing time for the case officer, thus prolonging determination of the application. An extension of time to 28 July 2023 was agreed by the parties.
5. Whilst the ecology officer's response was not published on the Council website, the comments required no further action from the applicant and would not have informed a reason for refusal.
6. The Council failed to determine the application by the extended time limit. Furthermore, it failed to respond to the applicant's enquiries, dated 31 July 2023 and 12 September 2023, thus exhibiting a lack of cooperation.

7. I note the proposal involved some complexity due to its fallback position and emerging policies. However, there is nothing before me to suggest the application presented the Council undue difficulty in determining the application. The Council explains the excessive workload arose from staff shortages, and personal reasons resulted in the case officer being unavailable for a period. Whilst such reasons explain the delay, they do not justify the Council's failure to determine the application in a timely manner or communicate effectively.
8. Therefore, the Council failed to explain why it did not determine the application by the agreed time limit and thus behaved unreasonably.

Whether unnecessary or wasted expense incurred

9. The applicant asserts had the Council issued its decision, the appeal would not have been necessary. Consequently, the applicant considers they incurred unnecessary expense in the appeal process.
10. Prior to the validation of the application, in the email dated 14 November 2022 the case officer advised the applicant that the proposal would not comply with Stratford-on-Avon District Core Strategy 2016 Policies CS1, CS5, CS9, CS15, CS20, and AS10; that the proposal would not be justified by the fallback position; and that conflict with the development plan would not be outweighed by the provision of self-build or custom housebuilding. The case officer advised the proposal would be refused for those reasons.
11. In an email, dated 16 March 2023, the case officer reiterated they would recommend refusal of the application for the reasons previously discussed. On 23 March 2023, the case officer confirmed the application would not require determination by the planning committee, and thus would be determined through delegated powers. In an email dated 04 May 2023, the case officer again confirmed their intention to issue a refusal of the application.
12. Whilst the Decision Notice was not forthcoming, the Council clearly communicated its intention to refuse the application and its reasons. There is nothing before me to suggest the Council would have granted planning permission had it determined the planning application before the time limit.
13. The applicant would have been aware the Council considered the proposal to be unacceptable in planning terms. Therefore, it was not necessary for the applicant to pursue the appeal on the basis of non-determination of the application.
14. Rather, through the appeal the applicant sought to contest the Council's putative reasons for refusal. Consequently, the appeal would not have been avoided had the Council issued a timely decision, and therefore I do not consider the applicant incurred unnecessary or wasted expense.
15. In conclusion, it is not demonstrated that unreasonable behaviour resulting in unnecessary or wasted expense has occurred, and an award of costs is not warranted.

E Dade

INSPECTOR