



Costs Decision

Site visit made on 6 August 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

Costs application in relation to Appeal Ref: APP/W2845/W/23/3333931 73 Great Russell Street, Northampton, West Northamptonshire NN1 3BU

- 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 Karu Kudithambi on behalf of Headcorn Constructions Ltd for a full award of costs against West Northamptonshire 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 19no apartments (revised scheme following approval of WNN/2021/0035).
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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, 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. Paragraph 047 and 049 of the PPG provide examples of types of behaviour which may give rise to a procedural or substantive award of costs against a local planning authority, including lack of co-operation with the other party or parties, delay in providing information or other failure to adhere to deadlines, and preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Paragraph 033 of the PPG advises that behaviour and actions at the time of the planning application can be taken into account in the consideration of whether or not costs should be awarded.
4. The applicant states the Council failed to provide a decision within the statutory determination period and failed to respond to written correspondence across an eight-month period between validation of the planning application and the submission of the appeal. The applicant has provided a summary of emails sent to the Council without reply, including multiple requests for progress updates and feedback on the viability assessment.
5. The reasons for the Council's failure to issue a decision within the statutory period or respond to written requests for information are unclear. However, the submitted evidence illustrates the Council failed to adequately co-operate with the applicant.
6. The Council failed to adhere to deadlines, including the statutory determination period. The Council's statement explains that, had it been able to determine the application it would have recommended planning permission be granted

subject to conditions. Likewise, in my decision, I have concluded the proposal would comply with the development plan. Consequently, failure to issue a decision in the statutory period resulted in delay of development that should clearly be permitted. In this regard, the Council behaved unreasonably.

7. The applicant suggests they incurred expenses through professional fees in preparing and submitting the appeal, including the preparation of the appeal statement, completion of forms and the collation of the submission, together with printing costs, travel expenses and meetings, with the prolonged period of time since the application was originally submitted having also impacted the applicant with regard to associated costs and finance.
8. Through the Council's lack of communication, and in the absence of a decision notice, the applicant had little option other than to appeal against the Council's non-determination of the proposal. Had the Council issued a timely decision, the appeal and associated expense would have been avoided. Therefore, through the Council's failure to determine the application within the statutory determination period, the applicant incurred unnecessary expense.
9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is warranted.

Costs Order

10. 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 West Northamptonshire Council shall pay to Mr Karu Kudithambi on behalf of Headcorn Constructions Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to West Northamptonshire 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.

E Dade

INSPECTOR