



Costs Decision

Site visit made on 10 September 2024

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 October 2024

Costs application in relation to Appeal Ref: APP/Y1138/Y/24/3339828 1A Chapel Street, Tiverton, Devon EX16 6BT

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Peter Mardell for a full award of costs against Mid Devon 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 listed building consent to restore the 3 original sash windows at the front of the property and replace single pane glass with double glazed units, that maintain the existing aesthetic of the property. The new integrated glazed units will sit within the existing wooden frames and so the appearance will remain the same.
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Decision

1. The application 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. An earlier application was submitted for the same proposal. The applicant attempted to lodge an appeal relating to this earlier application but was unable. The applicant then submitted a second application which was in effect a duplicate application and is the appeal to which this costs application relates. Although discussions on the merits of the proposal appear to have been ongoing the applicant submitted the non-determination appeal immediately after the 56-day period had lapsed.
4. I appreciate that the delays and service experienced by the applicant must have been frustrating, particularly regarding the first application. The matters raised are however all associated with the applications rather than the appeal. The PPG establishes that in any 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. The reasons for the delay are explained and evidence sets out exchanges that took place between the Council and the appellant where the merits of the proposal were evidently considered. In its appeal statement the Council sets out its reasons for not being able to support the proposal. Therefore, I find that these requirements of the PPG are satisfied.

5. The PPG advises that not determining similar cases in a similar manner can lead to a substantive award of costs against a Council. The Council addresses the cases raised by the applicant in its statement. Based on the evidence presented none of the cases raised would appear similar to the appeal proposal, and there is therefore no evidence to suggest that the Council is not determining similar cases in a similar manner.
6. Works to alleviate the acoustic issues could have progressed before the determination of the appeal. Indeed, the applicant submits that he intends to proceed with secondary glazing, and the Council has confirmed that consent for such is not required.
7. Other impacts arising from the delay such as the applicant's difficulty progressing other works to the building are unrelated to the proposal or the appeal process, and I am not satisfied that I should take these into account.
8. In summary, unreasonable behaviour during the appeal process that has resulted in unnecessary or wasted expense has not occurred, and an award of costs is not warranted.

A Tucker

INSPECTOR