



Costs Decision

Site visit made on 23 October 2024

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

Costs application in relation to Appeal Ref: APP/J0405/W/24/3343552

Ladymead Farm Denham Quainton HP22 4AN

- 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 Anthony Barrett for a full award of costs against Buckinghamshire Council.
- The appeal was against the refusal of the Council to grant planning permission for General purpose agricultural building at Ladymead Farm Denham Quainton HP22 4AN.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance 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 applicant for costs points firstly, to the slow progress of the application since October 2020 saying there were 'numerous occasions when no objections from consultees (were) in place to the scheme but no decision was never issued' and secondly to the Council's claim that they were 'not in a position to determine the application'.
4. The Council acknowledges the length of time the planning application had been with them but state that since the appointment of a new case officer in October 2023¹ there had been "*consistent engagement*" between the Case Officer (hereinafter identified as 'T') and the appellant's agent "*.....prior to the non-determination appeal being lodged*". They suggest significant progress was made (but) "*the lack of a sequential test remained a key issue*" and that 'a large part of the delays ...' were due to the LPA being pro-active in trying to address the scheme towards a positive outcome.
5. The Council have not provided documented evidence to support this portrayal but what is before me conflicts in some important points. There was plainly significant activity initiated by Case Officer T in October 2023 which continued until he left the Council around 22 December (a point which is not made clear by the Council). By

¹ Understood to be the author of the December email who left the Council in December 2023

January there appeared to be a resolved position imminently available which might reasonably have led to a positive determination except, for reasons unexplained, it seems the Council wholly resiled from the position reached by Case Officer T as to the non-requirement for a sequential test. It is not clear what, if any, engagement followed the departure of that case Officer but (noting the language used by the Council) it was plainly *not* 'consistent' with what had gone before as is suggested.

6. The costs application does not explain the lack of progress with this application over a surprisingly long period. It is clear that the applicant did agree extensions of time and did so in ultimate expectation of a positive decision, but evidence absent as to the conduct of parties through the early period of the application, I am unable to determine that the Council were behaving unreasonably prior to December 2023.
7. From that point the Council's position that *'it is simply a case that the parties disagreed with the acceptability of the proposed development'* does not accurately portray the position. A senior, and plainly experienced, officer of the Council (T) had progressed the application to a point of conclusion determining, on the evidence and response from EA, that there was no requirement for a sequential test. That was confirmed by email on 15 December 2023, a position both within the authority of the Council and wholly reasonable in the circumstances. The reversal of that position remains unexplained and not justified by simple adherence to the views of a consultee on a matter of process when material considerations were capable to strongly indicate otherwise.
8. Whilst delay is not of itself unreasonable behaviour, Planning Practice Guidance indicates that the aims of the costs regime is (in part) to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay. The response of the Council to this costs application fails to explain or justify what has taken place subsequent to the departure of Case Officer T. The conduct of the Council was not what might reasonably be expected, causing delay in the progress of the application and additional expense in the submission of this appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full awards of costs is justified.

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 Buckinghamshire Council shall pay to Mr Anthony Barrett 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.
11. The applicant is now invited to submit to Buckinghamshire 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.

Andrew Boughton

INSPECTOR