
Costs Decision

Site visit made on 9 January 2025

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 January 2025

Costs application in relation to Appeal Ref: APP/W0340/W/24/3341964

26 Charnham Street, Hungerford, West Berkshire RG17 0EJ

- 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 Howard Hungerford Ltd and Fox Howard Ltd for a full award of costs against West Berkshire 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 1 x new dwelling and conversion and extension of existing buildings into 3 x residential units including associated landscaping to the rear of 26 Charnham Street, Hungerford.
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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. The applicant considers this criteria have been met as, during the course of the appeal, the Council accepted that it would have granted the application if they had the opportunity to do so.
3. The Council's acknowledgement letter for the application dated 28 November 2023 stated that the Council was experiencing a backlog and set out the process which it was following as a result, including undertaking consultation and confirming an assigned planning officer at a later date. It stated the statutory target date for the application being in January 2024, and that the planning officer would contact the applicant to agree a timescale for determination. The Council therefore took steps at that time to communicate how it was intending to deal with the application.
4. However, following the consultation period a significant amount of time passed until a case officer was assigned in April 2024. I understand that during that period there was no communication with the applicant and as such they would have been left uncertain of the outcome of the application and any timescale for a decision.
5. The appeal against non-determination was lodged the same morning as the Council confirmed that a case officer had been assigned and a new target date was suggested. Given only half an hour passed between these two events it is very likely that the appellant had already prepared the appeal documents and its Statement of Case was dated March 2024. Therefore, even if the appellant was

aware of the Council's email of the morning of 4 April, it was too late to prevent the submission of the appeal.

6. The PPG states that the Council may be at risk of an award of costs if there were no substantive reasons to justify delaying the determination and when better communication with the applicant would have enabled the appeal to be avoided altogether. That would appear to have been the case here since the applicant states it was not aware that the Council had no objections to the scheme until it confirmed so during the appeal process. The applicant submitted additional information in response to the consultation responses published online. However, it is not apparent that the need for that information necessitated such a delay to the application's determination, nor would have prevented a favourable decision with conditions.
7. Overall, and based on the information before me, the expense of undertaking the appeal process was incurred as a result of the unreasonable behaviour arising from the lack of communication during the application process.

Conclusion

8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has occurred and a full award of costs is therefore warranted.

Costs Order

9. 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 Berkshire Council shall pay to Howard Hungerford Ltd and Fox Howard 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 Berkshire 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.

C Shearing

INSPECTOR