
Costs Decision

Site visit made on 17 December 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2025

Costs application in relation to Appeal Ref: APP/V1260/W/23/3335646

Land to the rear of 1091 Christchurch Road, Bournemouth

- 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 R Harle for a full award of costs against Bournemouth Christchurch and Poole 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 to demolish existing storage building, sever land, and erect a detached bungalow with off street car parking.
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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.
3. The applicant's application for costs is based on the alleged unreasonable behaviour of the local planning authority ('LPA') and wasted expense for the reasons, as considered below.
4. The PPG sets out circumstances when a LPAs handling of a planning application prior to the appeal may lead to an award of costs. It says 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. Further that in any appeal against non-determination, the LPA should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period. If an appeal in such cases is allowed, the LPA may be at risk of an award of costs, if the Inspector concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether.
5. The LPAs submissions include a chronology and copies of emails which show that the LPAs officers and the applicant's agent were in communication in respect of the planning application from its registration up to and beyond the 8 week determination date (13 September 2023). This included but was not limited to matters relating to internal consultations and the drafting of a legal agreement.

6. Also, it appears that some informal extensions of time to the original determination date were agreed between the main parties.
7. Around the 26 October 2023, the applicant's agent submitted an amended layout plan and suggested a further extension of time till the 14 December 2023. On the evidence before me, I cannot be certain that this extension of time was formally agreed between the main parties. Indeed, the LPAs submissions suggest that because an extension of time was not in place they were not in a position to consider any additional information and that the applicant's agent was advised that the application would be refused if not withdrawn.
8. The applicant's agents follow up email of the 30 November 2023 and some after this date were not responded to by the LPA. The LPA has explained that this was because of the case officer's workload and having to take annual leave. Nevertheless, a holding response was provided by the case officer's manager on the 15 December 2023 apologising for the delay and advising that they would ascertain progress with the application on the case officers return (2 January 2024). Despite this update and prior to the return of the case officer, the applicant's agent made an appeal against non-determination on the 18 December 2023. Subsequently, and soon after their return, the case officer provided a full assessment of the proposal to the applicant.
9. Drawing on the above, whilst it was unfortunate that the application was not determined within the initial 8 week determination date and any subsequent agreed extensions of time, it appears that this was due to the on-going discussions between the main parties in respect of the planning application.
10. Moreover, based on the LPAs appeal submissions and given my findings in respect of the applicant's appeal, it is clear why permission would not have been granted had the application been determined within the relevant period, which includes matters other than the requirement for on-site parking. Therefore, it is unlikely that better communication with the applicant would have enabled the appeal to be avoided altogether.
11. Consequently, and in the broader context of the planning application process, I am unpersuaded by the applicant's assertion that the LPA made no effort to communicate and that the failure to determine the application within the 8 week period was due to unprofessional actions on the part of the LPA.
12. The applicant has referred me to an allowed costs application in respect of a separate appeal, where the Inspector found that the Council failed to determine the application within the 8 week period and did not give the applicant a proper explanation. Because I do not have the benefit of the full details of this cost's application, I am unable to draw any meaningful conclusions from this. Therefore, this costs application is of limited relevance to my decision.
13. Given all of the foregoing, I find that the LPA did not act unreasonably in this case. Accordingly, it is not necessary to consider the question of unnecessary or wasted expense. I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated.

M Aqbal

INSPECTOR