
Costs Decision

Hearing held on 25 March 2025

Site visit made on 25 March 2025

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 May 2025

Costs application in relation to Appeal Ref: APP/R1038/W/24/3356078

Land at Hollybush Farm, 14 Main Road, Morton DE55 6GS

- 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 Brian Cooper for a full award of costs against North East Derbyshire 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 planning permission for residential development of up to 4 dwellings with access off Main Road (landscaping reserved).
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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. It is also clarified in the PPG that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, though behaviour and actions at the time of the planning application can be taken into account in the consideration of whether costs should be awarded or not.
3. The applicant is seeking a full award of costs on procedural grounds and suggests the Council acted unreasonably in failing to cooperate, ceasing all communication and failing to determine the application. It is alleged that this unreasonable behaviour led to the unnecessary expense of submitting the appeal.
4. Even if the applicant found liaising with the Council difficult and protracted, the timeline of events shows that the Council maintained a dialogue with the applicant which included cooperating and agreeing to extensions of time. During this period of communication, it was indicated a number of times that the officer had concerns with the proposal, which remained after several revisions to the scheme. Furthermore, the applicant was made aware of Ward member concerns, the possibility of the application being decided by committee and objections from other interested parties.
5. The last correspondence from the Council was on 23 July 2024 and despite several attempts by the applicant to engage, further communication from the Council was not forthcoming. The Council indicate that in combination, the absence of an agreed timescale, heavy workload and limited resources affected the order of

workload management and that they had always intended to make a decision on the application. While this explanation seems rational, it was not articulated to the applicant, and in ceasing communication, the Council's conduct was unreasonable. Nevertheless, the PPG is clear that any unreasonable behaviour must have directly caused unnecessary or wasted expense¹.

6. While it is regrettable that the Council did not provide feedback from the design surgery and failed to reach a decision, it had been indicated that concerns remained on the revised scheme, and the applicant was aware of this. As such, even if the application had been determined by the Council, it is likely that an appeal would have been an inevitable outcome. Accordingly, even though the Council ceased to cooperate with the applicant, an appeal could not have been avoided and it therefore follows that the applicant has not been put to unnecessary or wasted expense.

Conclusion

7. Therefore, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

F Harrison

INSPECTOR

¹ Paragraph: 030 Reference ID: 16-030-20140306