



Costs Decision

Site visit made on 15 May 2025

by **Terrence Kemmann-Lane JP DipTP FRTPI MCMI**

an Inspector appointed by the Secretary of State

Decision date: 27 May 2025

Costs application in relation to Appeal Ref: APP/U2615/W/25/3360594

Union Farm, Court Road, Rollesby, Great Yarmouth, NR29 5HG

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Justin Millar for a full award of costs against Great Yarmouth Borough 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 installation of new north and south roof extensions and dormer windows and roof adjustments; construction of raised patio and associated brick walls.
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Decision

1. The application for an award of costs is refused.

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.

The application

3. The conduct of the local planning authority in not determining the application within the prescribed time, on the basis of the departure of the case officer, is procedurally unreasonable. The departure of an officer does not absolve the council of its responsibility. No replacement officer was assigned to the case within the statutory period, nor was there any communication within this period, and no updates were given.
4. This lack of procedural management undermines confidence in the planning process. This caused unnecessary delay and expense to the appellant and a full award of costs is justified.

The rebuttal

5. The appeal application was retrospective and was commenced in absence of any planning application being submitted and approved. Following an enforcement complaint, a retrospective application was requested and submitted on the 21 November 2024. The submission was not valid and additional information was requested which made the application valid on the 17 December 2024 with a decision date listed as 11 February 2025.

6. The case officer responsible for the application left on the 31 January 2025 and the case was re-allocated to a different officer to conclude matters. An email communicating this was sent to the agent at 11:06 on 12 February 2025 requesting an extension of time to conclude the matter and enable the new case officer to make contact. No response was received. The following day, 13 February 2025, at 09:47, formal notification was sent to the Council advising that an appeal had been submitted against non-determination of the application, taking the decision making process out of the hands of the Council. The appeal was lodged two days after the determination timescale. It is not considered that this amounts to unreasonable behaviour by the Council as it sought to engage with the appellant in a timely manner to communicate the departure of the case officer and agree a short extension to enable a locally determined decision. No response to the communication by the council was received.

Conclusions

7. The departure of a case officer, central to the case, is most likely to cause a disruption in process, and it is not reasonable to expect a local planning authority to have spare capacity to immediately fill the gap as though nothing had intervened. The day after the due date for determining the application, the council requested an extension of time by email to the appointed agent, with no response. The following morning an appeal was lodged by the agent, it would seem without any attempt to ascertain what fresh timescale was to be expected, or the anticipated outcome.
8. In my experience it is unusual for an appeal to be lodged within such a short space of time following the expiry of the prescribed period for issuing a decision, bearing in mind that lodging an appeal will inevitably incur some expense when an agent is involved, and without making some inquiry as to when a decision might be expected. In this case it appears that the agent was informed of the situation immediately after the period for decision had passed, and no response was received.
9. In these circumstances it appears to me that an appeal might easily have been avoided, but in any event, following the departure of the first case officer, the council acted with reasonable speed. On balance, I consider that the council's actions did not amount to unreasonable behaviour.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Terrence Kemmann-Lane

INSPECTOR