



Costs Decision

Site visit made on 15 April 2025

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th May 2025

Costs application in relation to Appeal Ref: APP/R1038/W/25/3359040 Brookfields Farm, Main Road, Holmesfield, Dronfield S18 7WT

- 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 William Calvert for a full award of costs against North East Derbyshire 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 a single storey garage building to provide secure vehicle and ancillary storage for the main residential dwelling. And additionally, a basement storage garage to provide secure accommodation for ancillary agricultural equipment.
-

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.
3. Unreasonable behaviour on the part of a local planning authority may include it making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, preventing or delaying development which should clearly be permitted, having regards to its accordance with the development plan, national policy and any other material considerations, and not determining similar cases in a consistent manner.
4. The appellant contends that the initial application was validated in November 2021 and following discussions with the Council revised plans were submitted on 26 January 2022. In February 2022 at the request of the Council a list of agricultural equipment and photographs were supplied to support the requirement for a storage unit. Whilst on March 2022 the appellant was informed by the Council that the application was minded for refusal no decision notice was issued.
5. In March 2024 the Council contacted the appellant to seek an extension of time to review the case. Since then the Council requested further extensions of time, but no decision was reached. No requests for additional information or reasons for delays were provided during this period. The appellant also contends that the Council's submissions relating to the appeal were vague, generalised and based on incorrect plans. In dealing with the application the Council has requested the submission of additional, unnecessary information.

6. The Council has not responded directly to the application for costs although confirm their position in relation to the reasons as set out in their appeal statement.
7. Paragraph 48 of the PPG states that where a Local Planning Authority fails to determine an application within the time limits, it should give the applicant a proper explanation. Based on the evidence before me, no explanation has been put forward by the Council in relation to the failure to determine the planning application.
8. I have found in my appeal decision that the proposed development is not inappropriate development as set out in paragraph 154 g) of the National Planning Policy Framework. In responding to the appeal, the Council reached the view that the proposal was inappropriate development, however they failed to set out which potential exceptions in the Green Belt were considered in reaching this conclusion. Furthermore, in commenting on the appeal the Council has referred to incorrect plans.
9. The failure of the Council to give a proper explanation for failing to determine the application within the time limits, failure to undertake a robust assessment of whether the proposal constitutes inappropriate development in the Green Belt and the failure to review the correct plans has led to unnecessary delays in determining the application, which constitutes unreasonable behaviour.

Conclusion

10. 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 award of costs is justified.

Costs Order

11. 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 North East Derbyshire Council shall pay Mr William Calvert, 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.
12. The applicant is now invited to submit to North East Derbyshire 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 Skelly

INSPECTOR