



Costs Decision

Site visit made on 9 July 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024

Costs application in relation to Appeal Ref: APP/T2350/W/24/3336383 Kitchens Cross Lane, Bashall Eaves, BB7 3NA

- 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 Ms S Howard for a full award of costs against Ribble Valley 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 a stable block and manege for private use.

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. In this case the Council failed to give notice within the prescribed period of a decision on an application for planning permission. The PPG advises 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. It goes on to say that in any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why planning permission would not have been granted had the application been determined within the relevant period.
4. The planning application was registered as valid on 31 May 2023 and a decision was due by 10 July 2023. United Utilities (UU), a consultee, did not respond until 14 July 2023 when it requested the submission of a site layout plan which overlaid the location of a water main in relation to the proposed development. On 15 August 2023, the applicant submitted additional information including an amended plan showing the position of the water main. The Council states that at that time an extension to the date by which the application should be determined was requested, which was not agreed.
5. The next correspondence from the applicant to the Council was an email sent on 17 December 2023 which highlighted that if a decision was not made on the application by 14 January 2024 the right of appeal would be lost. The applicant also asked, within the same correspondence, whether the application would be determined before Christmas. The Council did not reply, and the applicant duly submitted an appeal on 4 January 2024.

6. It is apparent that the late response from UU was a contributing factor that led to the Council not determining the appeal within the relevant period. However, there is no compelling evidence before me that the submitted amended plan was not sufficient to address UU's concerns. The need to maintain an access strip adjoining the mains is not an unusual or overly complex planning issue, and in the absence of any explanation or justification, the reasons why the absence of the further comments of UU prevented the Council from reaching a decision is unclear.
7. The Council indicated that the applicant not agreeing to a suitable time extension meant that there was not an agreed time frame to work to. However, that did not justify the continued lack of progress towards the determination of the planning application which had been registered almost six months earlier.
8. I therefore find that there were no substantive reasons to justify a delay in the determination of the application, and the Council failed to give a proper explanation for it.
9. The Council has provided a reasonable explanation why it did not respond to the appellants email of 18 December 2024. Nonetheless, the applicant had little option but to lodge an appeal against the non-determination of the planning application, given the lack of any suggestion that it would be determined before the right to appeal expired.
10. The extent to which the proposed development has resolved the harm to the character and appearance of the area is a matter of judgement and it was not unreasonable for the Council to eventually conclude that the proposal has not gone far enough to address the Inspectors concerns of the previous appeal decision¹. Furthermore, the Council has, as part of the appeal documents, clearly set out why planning permission would not have been granted had the application been determined within the relevant period.
11. I acknowledge that had the applicant known the Council's concerns on the proposed development, consideration could have been given to whether an appeal was worthwhile or whether the negotiation of an amended scheme and the submission of a further, possibly free, application was an option. Nonetheless, it is not clear to me that the timely determination of the application or better communication with the applicant would have enabled the appeal to be avoided. As such, and considering my appeal decision, it follows that I cannot conclude that the Council has prevented or delayed a development which should clearly have been permitted.
12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Elaine Moulton

INSPECTOR

¹ APP/T2350/W/21/3281836