



Costs Decision

Site visit made on 5 February 2018

by **Michael Moffoot DipTP MRTPI DipMgt**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15th February 2018

Costs application in relation to Appeal Ref: APP/N2535/W/17/3183874 Greensand House, 14 Front Street, Tealby, Market Rasen LN8 3XU

- 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 & Mrs Chapman for an award of costs against West Lindsey District Council.
 - The appeal was against the refusal of planning permission for 'new dwelling within residential rear garden to 14 Front Street along with proposed off street car parking spaces for 14 Front Street'.
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Decision

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

Reasons

2. The *Planning Practice Guidance* (PPG) advises that, irrespective of the outcome of the appeal, 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 essence, the basis of the costs claim relates to the alleged failure by the Council to co-operate during the processing of the planning application and delay in determining it.
4. The PPG advises that local planning authorities are required to behave reasonably in relation to procedural matters at an appeal, for example by complying with the requirements and deadlines of the process. Examples of unreasonable behaviour which may result in an award of costs include lack of co-operation with the other party or parties and delay in providing information or other failure to adhere to deadlines.
5. According to the appeal papers the application was registered by the Council on 19 May 2017 with a statutory target date for a decision of 14 July. 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. The Council requested extension of the statutory time period on two occasions, citing workload volume as the reason. In turn, the applicants requested an extension of time to consider the comments of the Council's Conservation and Tree Officers regarding the proposal, although it appears that this was not confirmed by the Authority. It is also clear that there was other contact and dialogue between the Case Officer and the applicants' agent during the processing of the application.

6. This culminated in the Case Officer indicating to the agent that the proposal could not be supported for reasons including harm to the Conservation Area and the setting of listed buildings, loss of neighbouring residents' amenity and inadequate drainage details. These concerns had previously been conveyed by the Council in its informal response to the applicants' pre-application enquiry regarding the proposed development.
7. The application was refused on 11 August; some four weeks after the expiry of the statutory deadline for a decision. However, on the basis of the evidence before me there appears to have been reasonable communication between the parties during the processing of the application. Extensions to time were requested by the Council, although it is not clear whether these were formally agreed to by the applicants. Nevertheless, in the event that an applicant is unwilling to agree an extension of time it is open to them to appeal on the basis of non-determination. This option was not exercised by the applicants in this case. They were also given the opportunity to withdraw the application and resubmit if they wished to try and overcome the Council's concerns regarding the proposal, but they opted for the application to be determined as submitted.
8. It seems to me that the Council had legitimate concerns regarding the proposal, including its visual impact on the Conservation Area and listed buildings, and conveyed these concerns to the applicants' agent both before and during the life of the application. Given the sensitive location of the site and the implications of the proposal for the visual amenity of the area the proposal required careful consideration by the Council, including an assessment by its Conservation and Tree Officers and responses from other consultees. In doing so the decision was delayed by a few weeks, but this does not amount to unreasonable behaviour by the Council in the circumstances I have described.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application for an award of costs fails.

Michael Moffoot

Inspector