



## Costs Decision

Site visit made on 30 January 2024

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

**an Inspector appointed by the Secretary of State**

**Decision date: 1 March 2024**

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### **Costs application in relation to Appeal Ref: APP/H0738/W/23/3330760 Grove Stables, Forest Lane, Kirklevington, Stockton-on-Tees TS15 9PY**

- 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 Peter Hodgson for a full award of costs against Stockton-on-Tees 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 outline planning permission to demolish stable block, relocate and convert into two residential units.
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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 and suggests the Council acted unreasonably in failing to determine the application. The PPG sets out examples of unreasonable behaviour which may give rise to a procedural award of costs. This includes a lack of co-operation and failure to adhere to deadlines. It indicates 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.
4. The Council wrote to the applicant on 20 April 2023 confirming that the application had been validated and was expected to be determined by 12 June 2023. An email dated 27 April 2023 indicates that a site visit was to take place the following day. On the 12 June 2023 the Council requested an extension of time until 20 June 2023 to ensure that no challenges would be made regarding land ownership, thus providing a reason for not reaching a decision within the initial timeframe. It is clear from the evidence therefore that the Council did engage with the applicant during the course of the application and explained their reasons for not reaching a decision and delaying its determination. While

- the applicant didn't respond until 9 July 2023 it was confirmed that had they seen the email they would have been agreeable to an extension.
5. Ongoing correspondence followed between the Council and the applicant regarding the Council's concerns about land ownership at the site. I appreciate the applicant's dissatisfaction at having to recover historical information when they had confirmed to the Council that they were content that the correct ownership certificate had been completed. Nonetheless, the costs of doing so were incurred during the planning application stage and the PPG is clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage.
  6. Notwithstanding that I have come to a different conclusion regarding the validity or otherwise of the application/appeal, I do not find that the Council's correspondence was misleading, and the failure to determine the application was not a deliberate or unreasonable action. Moreover, there is no substantive evidence to indicate that the Council amended the status of the planning application from valid to invalid. Rather, the Council indicated in an email dated 11 July 2023 that the application was moving to a decision for refusal based on the site being outside of the settlement limits.
  7. While it is regrettable that the Council failed to reach a decision within the prescribed period, they had indicated that they were resolved to refuse the proposal 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 did not deal with the application in a timely manner an appeal could not have been avoided and it therefore follows that the applicant has not been put to unnecessary or wasted expense.

### **Conclusion**

8. As set out above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*F Harrison*

INSPECTOR