

Costs Decision

Site visit made on 5 September 2016

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 11th November 2016

Costs application in relation to Appeal Ref: APP/R5510/W/16/3150620 West London Industrial Estate, Iver Lane, Uxbridge, Middlesex UB8 2JE

- 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 Speedy Hire Plc for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against the refusal of planning permission for use of site for B8 purposes with new storage and ancillary workshop and office buildings, car parking, external storage and new access to Wallingford Road.
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Decision

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

Reasons

2. Paragraph 30 of Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. Paragraph 049 of the Planning Practice Guidance states a number of examples of unreasonable behaviour by local planning authorities. The applicant maintains that the Council has acted unreasonably by the lack of co-operation from the pertinent case officer and not providing consultee responses despite these having been requested, with this ultimately leading to the refusal of the application when it could have been addressed. The applicant considers that this behaviour has caused the appellant to incur unjustified and wasted expenses in the appeal process.
 4. The Council has explained that the initial delays in validating the application was due to the absence of a number of supporting documents which should have accompanied the application. There were further delays which the Council explains were due to awaiting feedback from internal and external consultees. It would appear from the email trail; however, that the applicant was kept informed of progress throughout including feedback from consultees when it became available. Consequently, there is no evidence before me to demonstrate that the case officer has not co-operated with the applicant or withheld consultee responses. The Council has not acted unreasonably in this regard.
 5. The existing site has an existing B8 use which is currently accessed via the Iver Lane entrance. However, it is proposed to create a new access via Wallingford
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Road with potential implications for the road network to the north. It was not, therefore, unreasonable for the Council to raise concerns regarding the potential affect of the new road access. The onus is on the applicant to demonstrate that the proposal will not have a harmful effect. I note that the email of the case officer dated 2 November 2015 to the applicant provided the opportunity to withdraw the application from the agenda on the basis of providing additional transport evidence and restricting the hours of operation. However, there was no indication on behalf of the applicant that he was willing to restrict the hours of operation which were central to the Council's concerns in relation to the living conditions of residents on Cowley Mill Road.

6. Consequently, as indicated in the email of the case officer to the appellant on 17 November 2015, the Council clearly considered that the reason for refusal could not easily be overcome and as such there would be little room for discussion or negotiation. The Council have stood by their decision that the proposal would cause harm to the living conditions of neighbouring occupiers and highway safety which are legitimate concerns. Indeed it can be seen from my Decision that I share those concerns. The Council has not acted unreasonably in this regard.
7. The applicant submitted additional evidence at the appeal stage which was not before the Council when it considered the application. I sought the Council's views on that information in the interests of fairness. I do not consider that this has resulted in significant delays and has not changed the outcome of the appeal.
8. Whilst I appreciate that the outcome of the application will have been a disappointment to the appellant, the Local Planning Authority were not unreasonable in coming to that decision and indeed following consideration of the application on its merits alone, I have concurred with the Council.
9. I turn then to the matter of wasted expense. Notwithstanding the delays experienced in the progression of the application, the Council has, nevertheless, substantiated their reason for refusal and has stood by their decision. Even if the application had been progressed more quickly it would not have altered their decision. Furthermore, the appellant had the option to resubmit a planning application to the Council with the additional information which they required free of charge and consequently did not have to appeal the Decision.
10. I have, therefore, concluded that the Council has not acted unreasonably. In these circumstances it is not necessary to consider the question of any expense incurred. Since unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, the application cannot succeed.

Caroline Mulloy

Inspector