
Costs Decision

Site visit made on 4 October 2016

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 18 November 2016

Costs application in relation to Appeal Ref: APP/L5810/W/16/3151789 27 Grove Terrace, Teddington, Richmond Upon Thames, TW11 8AU

- 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 Andrew Everett (Everett Property Consultants Ltd) for a [partial] [full] award of costs against the Council of the London Borough of Richmond-upon-Thames.
 - 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 the construction of detached house with amenity space and off street car parking following removal of trees & part removal/replacement of boundary fence.
-

Decision

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

Reasons

2. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
 3. The Planning Practice Guidance says 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. In any appeal against non-determination, the LPA should explain their reasons for not reaching a decision within the relevant time limit and why permission would not have been granted had the application been determined within the relevant period.
 4. If an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether.
 5. The 8 week period expired in December 2015. The applicant says that in spite of requests for updates in January 2016 the Council provided no feedback on the application and no amended timescales were offered during the period up until the deadline for appealing on non-determination. Furthermore, the Council did not engage with the appellant in respect of the affordable housing contribution.
 6. The Council disputes the appellant's claims that there was no communication but has not offered any explanation of how that communication might have
-

justified the delay. The Council blames the delay on high workloads and says that the Case Officer did not deal with the previous applications.

7. The fact that the case officer did not deal with the previous applications does not provide adequate explanation for why the application should have remained undetermined for longer than 8 weeks. I appreciate that there may be a heavy workload but I have no real evidence why the application should remain undetermined for several months after the 8 week date. I therefore find unreasonable behaviour on behalf of the Council.
8. That said, in order to make an award of costs I also need to find that the claimant has gone to unnecessary expense. The Council has given reasons why it would have refused the application. The Council made a full case to substantiate its objections in respect of the conservation area and the legal agreement would have needed to have been completed regardless of the outcome of the application. From the information before me, I am satisfied that the application would have been refused and an appeal could not have been avoided.
9. Therefore, I do not find the unreasonable behaviour has directly caused the applicant to incur unnecessary or wasted expense in the appeal process.
10. The application for an award of costs fails.

Siobhan Watson

INSPECTOR