
Costs Decision

Site visit made on 24 January 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 31 January 2017

Costs application in relation to Appeal Ref: APP/A5270/W/16/3162325 2A Golden Manor, Hanwell, Ealing, London W7 3EE

- 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 Palama Developments Limited for a full award of costs against the Council of the London Borough of Ealing.
 - The appeal was against the refusal of planning permission for the demolition of the existing building and the erection of 1 No replacement dwelling, associated parking and landscaping.
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Decision

1. The application for a full award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) 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. It is clear from reading the Council's delegated officer report that the local planning authority considered the originally submitted plans rather than the amended plans which were submitted in advance of the determination of the planning application. There can be no doubt, however, that the decision made by the Council was based on the amended plans as they are specifically listed in the Council's refusal notice. Given the above, the delegated officer report includes a number of inaccuracies about what is proposed and the appellant has detailed such inaccuracies in table 1 of their application for costs.
 4. Despite the submission of the amended plans, and the plans listed in the refusal notice, there can be no doubt that delegated officer report continued to unreasonably make reference to the superseded plans. The first reason for refusal refers to "*excessive parking provision*" and an "*excessively large vehicular and pedestrian access*", but the amended plans satisfactorily resolved both of these matters in accordance with relevant planning policies. The local planning authority has clearly erred in its assessment of car parking provision and access arrangements. Had it assessed the proposal properly, I feel confident that the first reason for refusal would not have been imposed. In this regard, I consider that the Council has acted unreasonably and the appellant has been put to wasted time and expense in pursuing the appeal.
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5. The PPG states that all parties should regularly review their cases. The appellant made the Council aware of the above errors at a very early stage in the appeal proceedings, but the Council has failed to adequately address or comment on this matter. This could have included the withdrawal of reason for refusal No 1 at a very early stage. I also asked the Council for its comments about this matter on 18 January 2017 as part of the consideration of suggested conditions. Again, the Council did not properly review its position in respect of the consideration the plans and instead commented "*thank you for your email; I was not the original case officer for the application but am happy to be guided by your suggestions*". It was only on the 27 January 2017, in response to the appellant's application for costs, that the Council commented that "*it is acknowledged that the vehicular and pedestrian accesses are similarly deemed to be acceptable. On this basis, the reason for refusal No 1 (parking and highway concerns) is no longer considered to be appropriate*". In respect of this matter, the Council has acted unreasonably.
6. Whist the Council were entitled to conclude that the proposal would have an adverse impact upon the character and appearance of the Hanwell Village Green Conservation Area (CA), given the inconsistencies between the officer's assessment and the correct drawings, I am not satisfied that the Council has reached a properly informed view on this matter. Furthermore, and, in any event, I have found that the proposal would preserve the character and appearance of the CA. I therefore conclude that the Council has not reasonably substantiated its second reason for refusal and hence this amounts to unreasonable behaviour.

Conclusion

7. For the collective reasons outlined above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. Therefore, the application for a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the London Borough of Ealing shall pay to Palama Developments Limited, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to the London Borough of Ealing, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Daniel Hartley

INSPECTOR