
Costs Decision

Site visit made on 17 January 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 13 February 2017

Costs application in relation to Appeal Ref: APP/C5690/W/16/3160072 109, The Tamla, Wells Park Road, London SE26 6AD

- 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 Ms Caroline Syson for a full award of costs against the Council of the London Borough of Lewisham.
 - The appeal was against the refusal of planning permission for the refurbishment of the existing Public House, conversion of existing residential accommodation into 4 No. residential units including proposed additional floor level.
-

Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises¹ 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. The PPG advises² 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 same paragraph of the PPG goes on to state that if an appeal 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.
4. In this case, it is clear that there was a significant period of time between submission and determination of the application. The Council has explained that during this time the application was negotiated and amended to enable it to reach a position whereby officers felt they were able to recommend the scheme favorably. This is largely borne out by the letter from Studio Webb Architects Limited to the Council dated 18 November 2015. Nevertheless, there does appear to be a delay between reaching such a position and the application being reported to Committee, despite requests for a date to be fixed.
5. Whilst in this regard, I'm not aware of any substantive reasons to justify delaying determination, given the Council's subsequent decision at Committee,

¹ Paragraph: 030 Reference ID: 16-030-20140306

² Paragraph: 048 Reference ID: 16-048-20140306

it is clear that even if there had been better communication with the applicant at that time regarding a determination date, the appeal could not have been avoided. I understand that the delays would have been a source of frustration to the appellant, but I have no substantive evidence that any additional expense would have been incurred as a result.

6. I appreciate that the subsequent decision will have been a disappointment to the appellant, but the Council is not bound to accept the recommendation of its officers, provided that evidence is produced to substantiate the reasons for refusal. In this regard, the published minutes of the Committee meeting demonstrate that the Member debate was largely based on relevant material planning considerations and the Council's appeal statement reasonably substantiates its reasons for refusal. Whilst I have not agreed with the Council's decision, the issues in dispute are essentially matters of planning judgement and the Council was not unreasonable in coming to its decision.
7. Although I have noted the appellant's concerns that the application was effectively predetermined by Council Members, on the basis of the evidence before me, I cannot reasonably agree with this suggestion.

Conclusion

8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not justified.

Richard S Jones

Inspector