
Costs Decision

Site visit made on 14 February 2017

by Michael Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 28th February 2017

Costs application in relation to Appeal Ref: APP/X5990/W/16/3164569 Wallace Court, 300-308 Old Marylebone Road, London NW1 5RH

- 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 James Taylor Construction for an award of costs against City of Westminster Council.
 - The appeal was against the refusal to grant consent, agreement or approval to details required by No 3 of planning permission Ref: 15/07896/FULL granted on 2 February 2016.
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Decision

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

Reasons

2. The *Planning Practice Guidance* ('the 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.
3. The background to this application for an award of costs includes two previous applications to discharge condition No 3 of planning permission Ref: 15/07896/FULL relating to details of security shutters. In each case the refusal included an informative suggesting amendments to the design of the shutters, and in particular their degree of perforation.
4. The most recent application¹ was dated 27 October 2016, validated by the Council on 28 October and refused on 2 November. The application was therefore determined by the Council very promptly. However, the Planning Portal states: "*There are NO NATIONAL REQUIREMENTS for applications for the approval of details reserved by condition except that they should be made in writing and that the authority should determine them within 8 weeks of the application being validated*".
5. The formal registration letter for the application requires any amendment to the description of development to be submitted to the Council within five days. That said, this is a straight-forward single issue matter, and in the circumstances of the case I see no compelling reason for the Council to wait for five days to elapse before proceeding to a decision if it is satisfied that it is in a position to do so in all other respects. Given the relatively minor nature of the application I see no grounds for statutory or non-statutory consultations to

¹ Council ref: 16/10299/ADFULL/RN

have been undertaken by the Council prior to determination of the application.

6. Furthermore, having regard to the informative on the relevant decision notice, it was open to the Council to decide whether or not negotiations with the applicant about the design of the shutters were warranted, notwithstanding encouragement for Local Planning Authorities to work in a positive and proactive manner with applicants to find solutions². It was also open to the applicant to seek an informal opinion from the Council about the suitability of the proposed shutters prior to a formal submission; an option which does not appear to have been exercised in this case. Alternatively, further revisions to the design of the shutters could have been suggested to the Council before lodging the appeal and which, if positively received, could have formed the basis of a further application to discharge the condition.
7. It may be regrettable that there was not more dialogue between the main parties prior to the decision on the application being taken, but I find no evidence that the Council failed to process the application in a satisfactory manner in the circumstances of this case. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Michael Moffoot

Inspector

² The Town and Country Planning (Development Management Procedure)(England) Order 2015; the National Planning Policy Framework; and the Planning Practice Guidance
