
Costs Decision

Site visit made on 8 May 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 14 June 2017

Costs application in relation to Appeal Ref: APP/Q5300/W/17/3167880 Land adjacent to 5 Bourne Hill, Enfield, London, N13 4DA

- 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 Andreas Michaelides for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for Change of use from a storage yard to hand car wash facility with canopy to car wash area, improvement of existing vehicle accesses, installation of bi-fold gate to site exit and clear Perspex spray screen to existing fence.
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Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance (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 applicant submits that the Council has prevented or delayed development that should clearly be permitted, failed to produce evidence to substantiate its reasons for resisting the scheme and has persisted in its objections on a matter where an Inspector has previously indicated that the scheme is acceptable.
4. The Council did not determine the application and therefore a formal decision notice does not exist. The Council has provided a full statement of case which sets out clearly its concerns regarding the proposal. This includes consideration of the previous appeal decisions, consultation responses and policies of the development plan.
5. I understand that the applicant is concerned about the Council's approach having received the previous appeal decision for the site. Nevertheless, the Council is clear that it consulted its Environmental Health officers and has taken their technical advice into account in forming its view having considered the previous decision¹. The issue of living conditions is a matter of judgement. Neither party has provided substantive information regarding the background noise levels, noise of the proposed equipment and site operation or whether

¹ APP/Q5300/W/16/3143763

the mitigation from screens and insulation would reduce noise to an acceptable level.

6. The previous appeal is an important material consideration. Nevertheless, the Council is entitled to take into account the policies of the development plan, the National Planning Policy Framework and its own technical advisors and come to a conclusion. The statement of case considers these factors and arrives at a conclusion. In this regard, whilst I note the applicants view regarding the previous appeal, I do not consider that the Council's approach is unreasonable.
7. The assessment of highway impact considers multiple factors including the site constraints, transport statement, parking surveys and the operation of Bourne Hill itself. The Council's statement addresses these matters. In addition it specifically refers to the 'new' information provided in the form of a 'Lambeth Style' parking survey. It explains clearly why this information does not change its approach to this issue. This is a matter of judgement based on the available information and I do not consider that it has acted unreasonably on this point.
8. I appreciate that the applicant is concerned about the time taken and the overall engagement with the Council during the process. I note that an update was given to the applicant sometime after the statutory time limit. I also understand that the applicant does not consider the scheme to be particularly complex and that there were delays in getting the detailed technical advice following the consultation period. I have some sympathy with the applicant on that point. However, given the content of the advice, which is included in the Council's statement, I do not consider it likely that the appeal would have been avoided altogether. The Council is clear that it would have refused planning permission had it determined the scheme.
9. The applicant's final comments on the costs refer to the 2014 appeal decision². I agree that this decision alone cannot be taken as a reason to resist the current proposal. However, it remains a material consideration in considering the site as a whole and the weight attributed to it remains a matter for the decision maker, noting in this case that there has been a subsequent change to the development plan. The Council make clear that it took into account that there has been a change to the policy framework between the two previous decisions. Therefore to raise the decision in that context is not unreasonable.
10. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, for the reasons given above, I refuse the application for an award of costs.

D J Board

INSPECTOR

² APP/Q5300/A/14/2227359