
Costs Decision

Site visit made on 18 April 2017

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 23 June 2017

Costs application in relation to Appeal Ref: APP/E5330/W/16/3165012 9 Eglington Hill, Plumstead SE18 3PG

- 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 Evro Estates for a full award of costs against Royal Borough of Greenwich Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for formation of new side and rear extensions, loft extension and basement excavation all to create 4 new dwellings to supplement 4 existing ones and to include new front roof lights, light wells and internal modification.
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Decision

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

Reasons

2. Paragraph 030 of the National Planning Practice Guidance (NPPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraphs 046 to 049 set out the circumstances when the behaviour of a local planning authority might lead to an award of costs. These can either be procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
4. The appellant's case is essentially that they were forced to appeal against the non-determination of the application due to unexplainable delays from the Council and that this has resulted in costs being incurred.
5. The application was submitted to the Council in August 2016 and a decision was due to be made on or before 29 September 2016. The Council acknowledges that the appellant emailed the Council on three separate occasions in October, November and December 2016 but the Council confirms that it did not respond to these emails. No decision was made on the application by the Council and no indication has subsequently been given by the Council during the appeal process as to whether it would have been approved or refused.
6. I agree with the appellant that the Council's unreasonable behaviour in not determining the application resulted in them having no alternative but to lodge

an appeal against non-determination. In preparing and lodging the appeal they were put to some expense in order to receive a decision on the proposal.

7. Paragraph 048 of the NPPG advises that in any appeal against non-determination, the local planning authority 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. The Council has not done this.
8. The NPPG further states that if an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector or Secretary of State 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.
9. However as can be seen from my decision letter, the appeal has been dismissed. Therefore in the absence of any evidence to suggest that the Council would have approved the application, any costs that have been incurred by the appellant in pursuing the appeal and during the appeal process cannot be said to be unnecessary or wasted. Whilst I have some sympathy with the appellant and agree that the Council has behaved unreasonably and could have communicated better with the appellant during the application process, for the reasons stated I find that a full award of costs is not justified.

Beverley Wilders

INSPECTOR