
Costs Decision

Site visit made on 13 June 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 30 June 2017

Costs application in relation to Appeal Ref: APP/N5660/W/16/3163701 392-394 Coldharbour Lane, London SW9 8LF

- 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 Yakubu Isah for a full award of costs against the Council of the London Borough of Lambeth.
 - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
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Decision

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

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 appellant submits that the Local Planning Authority acted unreasonably by failing to engage during the application process and consequently refusing the application for reasons that were misplaced. Furthermore, it is claimed that the Council incorrectly cited conflict with Policy T7 of the London Borough of Lambeth Local Plan (2015) which was not relevant to the determination of the application. If a visit to the premises and engagement with the appellant had taken place the appeal could have been avoided.
4. Paragraph 049¹ of the PPG advises that Local Planning Authority's may be at risk of a substantive award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example by refusing to enter into pre-application discussions when a more helpful approach would probably have resulted in either the appeal being avoided, thus reducing the expense associated with the appeal; and refusing to approve reserved matters when the objections relate to issues that should already have been considered at outline stage; and failure to produce evidence to substantiate each reason for refusal on appeal.
5. The appellant made it clear when the application for approval of details required by condition No 2 was submitted to the Council, that should further information be required, they would be happy to discuss those requirements

¹ Paragraph:049 Reference IP: 16-049-20140306

- and answer queries. However, it is clear that the Council made no contact with the appellant during the application process and then refused the application on the basis that inadequate information had been supplied. Such actions are contrary to advice set out in paragraphs 186 and 187 of the National Planning Policy Framework which makes it clear that local planning authority's should approach decision-taking in positive way and look for solutions rather than problems, working proactively with applicants to secure developments.
6. Moreover, it is clear from the Council's reason for refusal that they had misconstrued the requirements of Condition 2. The use as a minicab office had been granted planning permission, albeit for a temporary 12 month period, and Condition 2 only required the appellant to provide details of how that use would operate in the form of a TMP. It was not an opportunity for the Council to reassess the impact of the development on traffic congestion, local parking supply, capacity or need, pedestrian movement or road safety, or consider whether the development was in conflict with the provisions of the development plan. It seems clear to me that the Council have refused to approve details for reasons which had already been considered when planning permission was granted. Engagement with the appellant during the application process would have provided an opportunity to discuss the requirements of the TMP and would probably have resulted in the appeal being avoided altogether. Moreover, the Council has not provided a rebuttal statement to substantiate its reason for refusal, which adds further weight to my decision that their behaviour was unreasonable.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that 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 Council of the London Borough of Lambeth shall pay to Mr Yakubu Isah 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 Council of the London Borough of Lambeth, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Elizabeth Pleasant

INSPECTOR