



Costs Decision

Site visit made on 28 June 2017

by **A A Phillips BA (Hons) DipTP MTP MRTPI**

Decision date: 21 July 2017

Costs application in relation to Appeal Ref: APP/L5810/W/17/3172428 Land to the rear of 15 - 17 Connaught Road, Teddington, Middlesex TW11 OPP

- 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 Andrew Tidmarsh for a full award of costs against the Council of the London Borough of Richmond-upon-Thames.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the demolition of existing garages and the erection of two single storey houses (one house with basement).
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Decision

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

Reasons

2. Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 states that examples of unreasonable behaviour by local planning authorities include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. There was only one reason indicated by the Council as to why it would have refused the proposal. This is essentially set out in the main issue I have identified in the appeal decision.
5. The planning application was not determined by the Council and the appellant has indicated that the application was the subject of significant delays by the Council. Whilst I understand the sense of frustration which delays might have caused, it would not be reasonable to conclude that the Council had behaved unreasonably in the process leading up to the appeal on the basis of the information before me.
6. For example, the application was incomplete when it was received by the Council and further information was required by the Council to determine the application and make a full assessment of the proposal in the light of the development plan and the adoption of interim policy on affordable housing. Although it seems that communication between parties could have been better,

overall it seems to be that the Council gave the appellant the best opportunity to overcome material concerns and to present their case in the best possible light in circumstances where concerns and objections were raised by interested parties.

7. Turning to the substantive matter at issue, my decision makes it clear that the matter of affordable housing, and specifically a Section 106 agreement for the provision of an off-site financial contribution, remains outstanding. Although the appellant contends that there is agreement between parties on this matter I have no evidence that the necessary heads of terms have been submitted to the Council. There is no clear evidence that the Council has behaved unreasonably with respect to this matter under appeal. Furthermore, as it stands the current proposal is not one which should be clearly permitted having regard to its accordance with the development plan, national policy and any other material considerations.

Conclusion

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

Alastair Phillips

INSPECTOR