
Costs Decision

Site visit made on 1 August 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 9 August 2017

Costs application in relation to Appeal Ref: APP/F5540/W/17/3174001 4 Dolman Road, London, W4 5UY

- 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 H Baryan for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the demolition of the existing buildings and the construction of a single block comprising 9 apartments, car and cycle parking and associated works.
-

Decision

1. The application for a full award of costs is refused but a partial award is granted in the terms set out below.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably, and thereby caused the party applying for the costs to incur unnecessary or wasted expense in the appeal process.
3. The Council failed to determine the planning application within the time limits without a proper explanation. The Council also delayed engaging with the applicant for an unacceptable length of time and it should have provided the applicant with the comments from the Local Highway Authority at an earlier date.
4. The Council also ignored a material consideration as it did not properly address the fall-back position. I appreciate that the Council wrote an email to the appellant to explain that, as the fall-back position had not been implemented, it was of the view that the employment use had not been lost. By itself, this is not unreasonable. However, the Council has persistently disregarded the relatively recent appeal decision¹ on a nearby site which addressed an almost identical issue in respect of the fall-back position. The Council is not obliged to agree with the decision of an Inspector but in circumstances where cases are similar, the Council should explain its reasons for coming to a different view. In this case, no coherent explanation has been forthcoming. The Council, therefore, has not fully substantiated its case.
5. In order to make an award of costs, I need to find both unreasonable behaviour and unnecessary or wasted expense and given the Council's

¹ APP/F5540/W/16/3143018

concerns in respect of living conditions, I am not completely convinced that the appeal could have been avoided.

6. Although I have come to a different conclusion in respect of living conditions, the Council substantiated this objection and may have still refused the planning application, had it been determined, regardless of the other main issue. I have little to convince me that a re-submission would have overcome this matter. Therefore, in my view, it is only the Council's disregard of a material consideration that has resulted in both unnecessary and wasted expense.
7. The Council has behaved unreasonably in relation to one of the main issues, i.e. "Employment Space", and thereby caused the party applying for the costs to incur unnecessary expense in the appeal process.

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 Hounslow shall pay to Mr H Baryan, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the main issue "Employment Space". 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 Hounslow, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Siobhan Watson

INSPECTOR