



Costs Decision

Site visit made on 25 July 2017

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 16th August 2017

Costs application in relation to Appeal Ref: APP/Q5300/W/17/3174824 53 Stoneleigh Avenue, Enfield, EN1 4HJ

- 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 Chris Varnavides (CV Capital Ltd) for a full award of costs against 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 planning permission for the demolition of existing garage and ancillary outbuildings to the land adjoining 53 Stoneleigh Avenue and redevelopment of site to provide 2no two-storey (2x 2-bed) houses with associated parking.
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Decision

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

Reasons

2. National Planning Practice Guidance (PPG) advises in paragraphs 29 and 30 that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Paragraph 48 of the PPG explains that awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. With regard to procedural matters at the appeal, the PPG cites a number of examples of unreasonable behavior which may result in an award of costs including a lack of co-operation with the other party or parties. Substantive matters which may lead to an award of costs can relate to failing to determine planning applications. Cited examples 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, a failure to produce evidence to substantiate each reason for refusal on appeal or on the basis of vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant submits that following on from negotiations with the Council during the course of the application which resulted in a number of changes to the plans, the Council failed to respond to the amendments or to determine the application.
5. It will be seen from my appeal decision that I have found harm in respect of living conditions of No 153. It follows therefore that the development was not

in accordance with the development plan and national policy. However, in the circumstances of failure cases putative reasons for refusal would normally be provided by the Council. The Council failed to provide any information setting out such reasons, nor did they submit any appeal statement. Submitted information was minimal, and I relied on copies of emails between parties, submitted by the appellant, in order to understand the Council's concern. In this regard, I consider that the lack of communication through the latter stages of the application and appeal process amounts to unreasonable behaviour in part.

6. In respect of unnecessary or wasted expenses, the applicant makes reference to additional meetings, site survey and time taken amending the drawings. However, these arose during the period when effective negotiation and communication was taking place and largely relate to amendments to the site access, following negotiation with the Highways team. Accordingly, those costs were not unnecessary as such matters would have been required to be addressed in any case.

Conclusion

7. As a result, although I find that the Council acted unreasonably in part, there is no evidence that this caused unnecessary expense. Therefore, no award is made.

C Searson
INSPECTOR