
Costs Decision

Hearing held on 18 January and 19 April 2018

Site visit made on 19 April 2018

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 29 May 2018

Costs application in relation to Appeal Ref: APP/G5180/W/17/3181668 National Westminster Bank Sports Ground, Copers Cope Road, Beckenham BR3 1NZ

- 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 Ilirjan Madani for a partial award of costs against the Council of the London Borough of Bromley.
 - The hearing was in connection with an appeal against the refusal of planning permission for the change of use of current car-park to car-wash.
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Decision

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

The submissions for Mr Ilirjan Madani

2. The costs application was made orally and in writing at the Hearing. The applicant asserts that the Council's failure to properly notify interested parties of the Hearing led to it being adjourned to another day. As a result the applicant incurred unnecessary expense. The failure to comply with the procedural requirements of the appeal process amounted to unreasonable behaviour.

The response by the Council of the London Borough of Bromley

3. The response was made orally and in writing at the Hearing with copies submitted after it closed. The Council acknowledges that there was a procedural discrepancy in regards to carrying out the required notification of interested parties. However, its behaviour was not unreasonable as it had followed the published appeal timetable.

Reasons

4. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The examples it gives of unreasonable behaviour which may lead to an award of costs against a local planning authority, in terms of procedure, include failing to notify the public of a Hearing, where this leads to the need for an adjournment.
 5. While the Council's formal notice of the Hearing contained the details of its date, time and venue, it was sent on 12 January 2018. This gave insufficient
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notice to interested parties. The Council's letter advising of the change of procedure, sent on 5 December, was helpful in publishing the date of the Hearing, but it did not indicate the time or the venue.

6. The effect of this was that some interested parties may have known the date of the Hearing but not its venue or start time. Others may have known the date, time and venue, but had insufficient notice to make arrangements to attend, or may not have received the notice before the Hearing took place.
7. After opening the Hearing, I was able to verify that not all those who had made representations were in attendance. There was therefore a significant risk that interested parties wanting to attend the Hearing may not have been able to do so. Consequently, the Hearing had to be adjourned to enable adequate notice to be given.
8. The Council responded in a timely manner to the instruction from the Planning Inspectorate to send out notification letters. However, this did not give sufficient notice to interested parties, which led to the adjournment. I understand the frustration this caused the appellant. However, the Council did not behave unreasonably.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Patrick Whelan

INSPECTOR