



Costs Decision

Hearing Held on 12 September 2018

Site visit made on 12 September 2018

by H Butcher BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2018

Costs application in relation to Appeal Ref: APP/F5540/W/17/3177092 10 Windmill Road, Chiswick, London, W4 1SD

- 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 the Council of the London Borough of Hounslow for a partial award of costs against Lamington UK.
 - The hearing was in connection with an appeal against the refusal of planning permission for the demolition of the existing building and redevelopment with the erection of a three storey, plus lower ground and set-back fourth storey 78 bedroom apart-hotel (Class C1) and associated works to the public highway including the creation of a shared surface loading bay and a disabled parking bay.
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Decision

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

The Submissions

2. The Council's case was made in writing the day before the hearing. The appellant's response was made orally at the hearing, and the Council made some further points orally as well. Details of the oral submissions are set out in the Annexe at the end of this decision.

Reasons

3. 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.
4. The appellant submitted a revised statement to the Planning Inspectorate (PINS) following a change of procedure as to how the appeal was to be dealt with. The appellant, however, failed to send a copy of this to the Council and it was not until much later, not long before the hearing was due to take place, that this error was discovered. This led to the hearing being postponed and then rescheduled which caused the Council to incur additional expenses in terms of, for example, re-organising a venue and notifying interested parties.
5. The appellant was represented by a planning agent, Boyer Planning Ltd, who would be familiar with the appeal process and the need to send copies of appeal statements to the Council. Indeed, the appellant did send the original appeal statement to the Council; they simply omitted to send the revised statement. Given the change in procedure in this case I can see how this

happened, particularly as there was no 'safety net' reminder to do this from PINS such as you get when originally submitting your appeal form.

6. Taking into account the circumstances in this case, in my opinion this was an innocent mistake on the part of the appellant and not something which amounts to unreasonable behaviour. There is certainly nothing before me to lead me to conclude that this was done on purpose or that it was part of the appellant's general resistance to, or lack of co-operation with, the Council.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated and that an award of costs is not justified.

Hayley Butcher

INSPECTOR

Annexe: Submissions made orally at the Hearing

Appellant

8. The appellant followed all procedures and sent copies to PINS and the Council directly. When the appeal procedure was changed from an Inquiry to a Hearing PINS asked if the appellant would like to send an updated statement. The letter did not say to send this to the Council. We did exactly as the letter instructed. We have another letter from PINS in relation to a similar change in procedure of an appeal where PINS says to send the revised statement to the Council. When the Council sent their statement they sent it to PINS but not the appellant, but that was a long time ago and trivial.
9. Any costs associated with the Council not receiving the revised statement are pretty inconsequential. They had to update their statement but the amount of change was inconsequential. We only really added paragraphs around 'fallback' court judgments.

Council

10. When the Council found out they hadn't received the revised statement they spoke to PINS who said the appellant should have sent this to the Council. The Council don't view the costs as inconsequential, they are hundreds of pounds. There is a cost and if the Council had received the revised statement the hearing would have proceeded without delay.