The Planning Inspectorate

Costs Decision

Site visit made on 5 October 2018

by D Guiver LLB (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12 November 2018

Costs application in relation to Appeal Ref: APP/Y5420/W/18/3203010
76 Woodland Gardens, Hornsey, London N10 3UB

- 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 and Mrs Evans for a full award of costs against the Council of the London Borough of Haringey.
- 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 construction of a new family dwelling.

Decision

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

Reasons

2. 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. Costs may be awarded to any party regardless of the outcome of the appeal. The PPG makes it clear that a local planning authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal or with respect to procedural matters by 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.

3. The applicant submits that the Council has acted unreasonably by preventing or delaying development which should clearly be permitted and failing to make a determination on the planning application within the statutory timeframe.

4. The Council acknowledged that the statutory deadline for determination of the application should have been 15 February 2018 with a target date of 12 February. The Council requested an extension to 28 March 2018 but in the event had not determined the application by the time the applicants appealed non-determination on 17 May 2018.

5. The applicants state that the decision should have been made within the statutory timeframe because the proposal was subject to pre-application advice and a number of amendments were made to the proposed scheme to address officers' concerns. Therefore, the Council was fully aware of the scheme before the application was eventually submitted. The applicants also argue that the

scheme was in accordance with the local development plan and therefore permission should have been granted.

6. The Council finally considered the scheme on 11 June 2018 and gave an indication that it would have refused the application for planning permission on the grounds that the proposal would adversely impact on the character and appearance of the area. However, officers indicated that they were minded to support the application and recommend approval.

7. The determination of whether a development proposal would have an adverse impact on the character and appearance of an area is fundamentally an issue of planning judgment. Accordingly, it would not be unreasonable behaviour merely because the Council reached a conclusion that differed from the applicants or from the indicated recommendation of officers.

8. The delay caused by the Council's failure to determine the application within either the statutory framework or even the extension it sought was excessive and constitutes unreasonable behaviour. However, given the indication from members, had the decision been made in a more timely fashion it is likely that the applicants would have had to appeal in any event.

9. It will be seen from the decision in the substantive appeal that I reached a similar conclusion to the Council with regard to the impact of the proposal on the character and appearance of the area. Having regard to this, while the Council acted unreasonably by delaying determination it did not delay development that should have been permitted having regard to the policies in the development plan, national policy and other material considerations. While the Council's behaviour was unreasonable, it did not cause the applicant to incur wasted costs as the appeal was inevitable in any event.

Conclusion

10. On the basis of the evidence before me, I conclude that it has not been demonstrated that the Council's unreasonable behaviour caused unnecessary or wasted expense in so far as an award of costs could be justified. I therefore determine that the costs application should fail and no award is made.

D Guiver

11. INSPECTOR