



Costs Decision

Site visit made on 18 June 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

Costs application in relation to Appeal Ref: APP/P4605/W/19/3225540 108 College Road, Birmingham B44 8DA

- 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 Edmond Fahey for a full award of costs against Birmingham City Council.
 - The appeal was against the refusal of the Council to grant consent, agreement or approval to details required by conditions of an approval.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (the PPG) indicates 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.
3. Examples of unreasonable behaviour by Local Planning Authorities are set out in Paragraph 049 of the PPG.
4. The applicant states that the appeal was unnecessary as the Council refused the discharge of three conditions on the basis that plans had not been received. The Council were sent these plans on two occasions, and as a result, a part issued, part refusal document was issued under reference 2019/00593/PA.
5. The Council have acknowledged that, due to human error, in terms of the storage of the additional information, the Council refused the application for the three conditions concerned but discharged two conditions for which the information was supplied. However, the Council have stated that the post decision correspondence demonstrates that there was no guarantee that the information would have been agreed if reviewed.
6. I have noted that the Council have acknowledged that errors were made in processing the application to discharge conditions. However, in my appeal decision, I have found that the paucity of information supplied in order to discharge the conditions is lacking in sufficient detail in order to reach a positive conclusion.
7. Accordingly, whilst the Council did not fully evaluate the scheme, the appeal could not have been avoided, due to the quality of the information supplied. The post decision correspondence clearly demonstrates that concerns have been raised in relation to the submitted details, once these were located. The applicant would have had to address these concerns at appeal in any event.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Cooper

INSPECTOR