



Costs Decision

Site visit made on 23 September 2019

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2019

Costs application in relation to Appeal Ref: APP/Z5630/W/19/3232351 9 Willoughby Road, Kingston Upon Thames KT2 6LN

- 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 Steve Dunn, Willoughby Road Ltd for a full award of costs against the Council of the Royal Borough of Kingston-upon-Thames.
- 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 ground and first floor extensions, subdivision of existing house to create a 3-bedroom house and a 4-bedroom house.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Procedural Matter

2. The appellant has not specified if the application is for a full or partial award of costs. In the absence of this information I have assumed it is the former.

Reasons

3. The Planning Practice Guidance 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. This particular claim relates to procedural matters and the process not applied by the Council, "forcing the applicant to resolve the determination via the appeals system", noting no formal reason was given for the delay, despite repeated attempts, until after the target decision date.
5. The Council's explanation for the delay was provided about two weeks after the target date and noted several reasons including the Case Officer's involvement at a public inquiry, increasing caseload, implementation of a new IT system and the loss of key staff.
6. It appears to me that substantial pressure of work on the Case Officer has led to the delays in the processing of the planning application. However, it is clear from the email chain that the appellant tried on several occasions, unsuccessfully, to engage with the Case Officer and the lack of timely responses cannot be considered reasonable.
7. The appellant has also referred to the fact that the Council has not explained the reasons why planning permission would not have been granted, contrary to

the advice of the NPPG. This again cannot be regarded as reasonable behaviour on the part of the Council.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the Royal Borough of Kingston-upon-Thames shall pay to Mr Steve Dunn, Willoughby Road Ltd the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in preparing and submitting the appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to the Council of the Royal Borough of Kingston-upon-Thames, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Carter

INSPECTOR