
Costs Decision

Site visit made on 26 November 2019

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2019

Costs application in relation to Appeal Ref: APP/Z5630/W/19/3235463 14 Villiers Avenue, Surbiton KT5 8BD

- 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 Mrs Alison Persson 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 demolition of the existing chimney stack and finished roof level to be increased by approx. 100mm.
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Decision

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

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. The application for costs seeks a full award based on the unnecessary expense and the professional fees incurred by the appellant in pursuing this appeal¹.
3. The appellant states that the Council was unreasonable and the appeal was unnecessary as the Council failed to make a decision within the prescribed time period and there was a lack of communication from the Council during the application process. The appellant states that the subsequent admittance by the Council that the application would have been granted planning permission was further evidence of the unreasonable behaviour in this case.
4. In response to the appellant's costs application, the Council acknowledges that, due to the introduction of a new IT system and an unprecedented lack of staff resources, the delay was unavoidable and that they actively engaged with the appellant during the application process.
5. The PPG sets out a non-exhaustive list of examples of unreasonable behaviour on procedural² and substantive grounds³ which may put a Council at risk of an award of costs. Relevant to the case of this application, it states that the failure to adhere to deadlines and preventing or delaying development which

¹ Planning Practice Guidance: Paragraph: 032 Reference ID: 16-032-20140306

² Planning Practice Guidance: Paragraph: 047 Reference ID: 16-047-20140306

³ Planning Practice Guidance: Paragraph: 049 Reference ID: 16-049-20140306

should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, could be considered unreasonable.

6. It is clear from the content of the main parties submissions, that whilst the Council faced challenging circumstances, they clearly failed to adhere to the deadlines and prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. As such, I can make no other conclusion than that the appeal would not have been needed in this case.
7. Whilst I note the Council's comments that, following receipt of the appeal, it made every effort to ensure that no further expense was incurred by the main parties, the appellant nonetheless was formally represented at the appeal stage and was faced with unnecessary expense in preparing the arguments for this appeal.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, 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 Mrs Alison Persson the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. 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 Troy

INSPECTOR