



Costs Decision

Site visit made on 25 November 2019

by Adrian Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Costs application in relation to Appeal Ref: APP/F5540/W/19/3236692 78 Kingsley Road, Hounslow TW31QA

- 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 S Khan for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against a grant of approval subject to conditions of details required by a condition of a planning permission.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. The circumstances which might lead to an award of costs can either be procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. Examples of unreasonable behaviour which may result in a substantive award of costs against a local planning authority can include the failure to substantiate its case at appeal, and imposing a condition that does not meet the tests for the use of conditions contained in the National Planning Policy Framework (the Framework) and in the Guidance.
3. In determining the appeal, I have concluded that the disputed conditions attached to the Council's approval¹ of details required by condition No 5 of appeal Ref APP/F/5540/W/18/3196505 did not meet all the relevant Framework tests which conditions must meet. In addition, the Council did not submit an appeal statement to justify the need for the additional conditions, so it has not substantiated its appeal case.
4. This amounts to unreasonable behaviour on the part of the Council, with the result that the applicant incurred unnecessary and wasted expense in submitting the appeal.
5. For these reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated and that a full award of costs is justified.

¹ Ref 00667/78-80/P3(5) dated 8 March 2019

Costs Order

6. 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 London Borough of Hounslow shall pay to Mr S Khan, 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.
7. The applicant is now invited to submit to the London Borough of Merton, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Adrian Caines

INSPECTOR