
Costs Decision

Site visit made on 15 November 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 10th January 2020

Costs application in relation to Appeal Ref: APP/M5450/W/19/3234894 Hive Farm, Hive Road, Bushey WD23 1JG

- 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 B O'Shea for a partial award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for formation of access.
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Decision

1. The application for a partial 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.
3. Paragraph 046 of the PPG states that awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
4. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities that risk an award of costs include:
 - failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; and
 - refusing planning permission on a planning ground capable of being dealt with by conditions.
5. While I note the evidence relating to the service provided by the Council with respect to a Section 106 legal agreement, as set out in my decision letter, I see no reason why the right turns in and out of the access could not be controlled by a negatively worded condition. Since planning permission was refused on a planning ground capable of being dealt with by conditions, the Council has behaved unreasonably in this regard.

Conclusion

6. For the reasons outlined above, I conclude that the Council has acted unreasonably, and that the appellant has incurred unnecessary and wasted expense in contesting this part of the Council's reason for refusal. Therefore, a partial award of costs is justified.

Costs Order

7. 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 London Borough of Harrow shall pay to Mrs B O'Shea the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the third part of the Council's reason for refusal which relates to highway safety; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Sabu

INSPECTOR