
Costs Decision

Site visit made on 10 January 2020

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 15 January 2020

Costs application in relation to Appeal Ref: APP/L5810/W/19/3237929 136A Buckingham Road, Hampton TW12 3JR

- 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 Michael Curran for a full award of costs against the Council of the London Borough of Richmond-upon-Thames.
 - The appeal was against the refusal of planning permission for the renovation/amendment to an existing dwelling and the construction of 4 No new detached properties.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant has commented that pre-application advice and planning application determination delays may have an adverse impact on the ability to purchase the site and that it may also adversely impact on costs and profit from the proposed development.
4. I do accept that the Council took a long time to provide pre-application advice and that its decision to refuse planning permission was made outside of the statutory eight week determination period.
5. There is no statutory requirement for the local planning authority to provide pre-application advice and any such advice is given on a without prejudice basis. I do note that the applicant was able to hold a pre-application meeting with the Council prior to the submission of the planning application. However, the evidence before me does seem to suggest that the pre-application advice service received was poor in so far that the final written response was sent to the applicant on 27 June 2019. This was a number of months after the pre-application meeting which took place on 23 November 2018. Nonetheless, I do not consider that this in itself led to any significant delays from the point of view of lodging the planning application with the Council: indeed, the applicant opted to submit the planning application in early 2019 prior to receiving any written pre-application advice response from the Council.

6. The evidence before me does suggest that the Council did engage with the applicant a short time after the statutory determination period and conveyed its concerns about the proposed development. I note that there was some initial delay in validating the planning application and I acknowledge the applicant's comments about documents already being submitted to the Council. Nonetheless, there is a separate mechanism for dealing with validation disputes including, if necessary, a separate right of appeal.
7. Shortly after the statutory determination period, the Council did make it clear that it had concerns about the planning application. It was not unreasonable of the Council to suggest to the applicant that the planning application be withdrawn and equally it was reasonable for the applicant to carry on with the planning application and to subsequently lodge an appeal.
8. There is no doubt that the Council could have communicated much earlier with the applicant in terms of providing feedback on the planning merits of the planning application. However, and for the reasons outlined above, in this case the identified delays were not of such a magnitude that could reasonably be considered to be significant and hence to amount to unreasonable behaviour on the part of the Council. Furthermore, it is of note that the applicant had the option of appealing against non-determination of the planning application after the statutory determination period had expired.
9. In addition to the above, I have dismissed the appeal. Indeed, there are substantive reasons why planning permission has been refused. In this respect, it cannot be said that the minor delays above have prohibited the ability to commence approved development. In this regard, the applicant's comments about costs and profit from the proposed development are of no relevance from a planning point of view. Furthermore, whether or not the site will or will not be purchased is a separate commercial matter between the applicant and the landowner.

Conclusion

10. For the above reasons, I conclude that the Council has not acted unreasonably, and that the applicant has not been put to wasted time and expense in pursuing the appeal. Therefore, a full award of costs is not justified.

D Hartley

INSPECTOR