



Costs Decision

Site visit made on 8 January 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2020

Costs application in relation to Appeal Ref: APP/Q5300/W/19/3236686 244 Lincoln Road, Enfield, London, EN1 1TA.

- 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 Hartley Developments Ltd for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application to vary specified conditions imposed on a previous planning permission for the subdivision of the site and conversion of the property into two single family dwellings comprising 2 X 3 bedroom involving two storey side extension, ground and first floor rear extensions, rear dormer and front rooflights with associated amenity space.
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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 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. The Council granted planning permission for the development which would have resulted in two dwellings on 11 January 2019 under ref. 18/04356/FUL but unfortunately it imposed conditions 4, 6, 7, 8, 11 and 14 which were 'pre-commencement' conditions in contravention of the requirements of the Town and Country Planning (Pre-Commencement Conditions) Regulations 2018 which came into force in October 2018. This in itself amounts to unreasonable behaviour by the Council.
4. Further, the application the subject of the appeal should have been determined by the Council in the prescribed period up to the 2 May 2019 but was not determined by the 6 September 2019 the date that the appeal against non-determination was lodged. The appellant's agent has shown repeated requests to the Council for information about the delay on the application and when a decision could be expected but the Council has not explained that any extenuating circumstances applied over this period or that there was other due cause for the delay. Therefore, it is clear to me that the Council has held back development for new housing that could have already taken place. This also amounts to unreasonable behaviour by the Council. Moreover, the appellant has had to bear the unnecessary costs of the appeal against non-determination.

5. 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

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 Council of the London Borough of Enfield shall pay to Hartley Developments Ltd 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 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.

David Murray

INSPECTOR