



Costs Decision

Site visit made on 17 October 2019

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2020

Costs application in relation to Appeal Ref: APP/W5780/W/19/3220321 73-77 Ilford Hill, Ilford, IG1 2DG

- 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 Westplan Investments Limited for a full award of costs against the Council of the London Borough of Redbridge.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the formation of 3 additional floors to provide 12 no. residential units and works at basement level to facilitate a waste & recycling area, cycle storage, new lift and ancillary plant, together with new external cladding, replacement fenestration and a new glazed canopy to the existing building.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where:
 - a party has behaved unreasonably; and
 - the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG clarifies that unreasonable behaviour may either be procedural¹ or substantive². Although an application for costs may relate to events before the appeal, the PPG states that costs unrelated to the appeal are not eligible for an award³.
4. The application for costs by the appellant is based on procedural grounds in that it alleges the Council did not determine the application within a timely fashion in accordance with the statutory deadline.
5. Although the Council did not determine the application within the statutory 13-week period this does not in itself constitute grounds for unreasonable behaviour. This is reinforced by Government speed of determination targets, which do not require 100% of all such applications to be dealt with inside such time periods. Furthermore, I am satisfied that the Council provided reasonable

¹ Paragraph: 047 Reference ID: 16-047-20140306, Revision date: 06 03 2014

² Paragraph: 049 Reference ID: 16-049-20140306, Revision date: 06 03 2014

³ Paragraph: 032 Reference ID: 16-032-20140306, Revision date: 06 03 2014

grounds for the delay in determination and accordingly sought extensions of time from the appellant, which were duly agreed.

6. In this respect, it is important to note that an applicant is under no obligation to agree to an extension of time request, and it is at their discretion if they choose to do so. If they decline this request, they retain the opportunity to appeal against non-determination once the statutory time period has passed. In the case before me, I recognise that the appellant was behaving reasonably in agreeing to such extensions of time, but they were under no obligation to do so and could have appealed much sooner against non-determination if they had not agreed to these requests.
7. I sympathise with the appellant's frustration at the delay in determining the application promptly, but do not find the length of time they had to wait outside of the initial statutory time period and subsequent extensions of time to be so substantial as to constitute unreasonable behaviour. As a consequence, the application for costs on procedural grounds fails.

Wasted expense

8. Given my conclusions on the allegation of unreasonable behaviour, the matter of unnecessary or wasted expense does not need to be considered.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Robert Fallon

INSPECTOR