The Planning Inspectorate

Costs Decision

Site visit made on 17 February 2020

by Roy Curnow MA BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30th March 2020

Costs application in relation to Appeal Ref: APP/H5390/C/19/3234641
158-160 Goldhawk Road, London W12 8HJ

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Top Notch Tyres UK Ltd for a full award of costs against the Council of the London Borough of Hammersmith & Fulham.
- The appeal was against an enforcement notice alleging the material change of use of a car showroom to its use for the sale and fitting of tyres, MOT testing station and vehicle servicing.

Decision

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

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. An application for costs will need to demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.

3. The appellant's claim is made on procedural grounds. It relates to the Council submitting the Questionnaire and associated documents late, thus limiting the time in which it could review it and respond to it, and to its not submitting a statement of case in support of its position. The claim goes on to say that this amounted to unreasonable behaviour that had significant implications for the appellant and agent in responding to the points raised in the enforcement notice (the notice). The result, it is claimed, was unnecessary expense and delay to the appellant.

4. The Council made no response to the costs application.

5. The PPG sets out examples of actions of a local planning authority that might be unreasonable[1]. Amongst these is the 'delay in providing information or other failure to adhere to deadlines'.

6. The Council set out its position through the submission of an Officer report into the alleged breach of planning control. This, along with the Questionnaire and other documentation, was submitted some 8 days late and I consider this to amount to unreasonable behaviour. Although this led to inconvenience and less

[1] Paragraph: 047 Reference ID: 16-047-20140306. Revision date: 06 03 2014

time in which to respond, the appellant was nonetheless not precluded from making a detailed response.

7. A party's failure to provide a statement of case could amount to unreasonable behaviour that might justify an award of costs. However, this is not always the case. Here, the Council submitted an Officer report that set out its reasoning for issuing the notice, and the claimant had the opportunity to respond to this. Thus, I am of the view that the Council properly exercised its development management responsibilities and that it did not further submit a statement did not amount to unreasonable behaviour.

8. The evidence put forward in support of the claim shows that the appellant exchanged a small number of emails with The Planning Inspectorate regarding the Council's actions. I am not persuaded that this led to substantive unnecessary or wasted costs for the appellant.

9. In the light of the above, I am of the view that the appellant has not been put to any unnecessary or wasted expense when dealing with this appeal.

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the applicant's claim for costs fails.

Roy Curnow

INSPECTOR