



Costs Decision

Site visit made on 4 February 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 3 April 2020

Costs application in relation to Appeal Ref: APP/M5450/W/19/3239882 28 Nicola Close, Harrow HA3 5HP

- 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 Suraj Vithlani, Motion Architecture for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of a planning permission for the conversion and extension of garage to provide a two storey building for two flats; separate amenity space, parking and bin storage.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, the National Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process¹.
3. The applicant contends that he has tried to work with the Council but that it has consistently obstructed his efforts to obtain planning permission to develop the site. He states that he has had to submit several applications and produce numerous drawings to be able to discharge the conditions relating to the planning approval. He also declares that the application which is the subject of this appeal has taken the Council a long time to validate and determine.
4. The Council asserts that it has sought to engage with the applicant throughout the process. Following advice from specialist officers, it considered that insufficient information had been submitted to allow the conditions to be discharged and so refused the application. In addition, the Council states that the application which is the subject of this appeal and costs decision was determined within the eight week period following validation.
5. I am aware of the planning history of the application site and acknowledge that the process of obtaining planning permission and subsequently applying for the discharge of conditions has been lengthy and likely to have been frustrating for the applicant. I also note the revised plans and additional information

¹ National Planning Practice Guidance, Paragraph: 030 Reference ID: 16-030-20140306.

- submitted by the applicant in an attempt to address the issues raised by the Council.
6. However, as outlined in my Decision, following consideration of the appeal on its planning merits, I have concurred with the Council and concluded that the information which has been submitted is not sufficiently clear and/or does not meet the specific requirements to be able to discharge the conditions.
 7. It is apparent from the email correspondence submitted as part of the appeal that, following the refusal of a previous application², the Council advised the applicant to use the pre-application services in planning and drainage in order to agree the details, and/or commission specialists to prepare the details required, prior to any subsequent application being submitted. However, there is no evidence before me which confirms that the pre-application services were used or that specialists were commissioned to prepare the details required.
 8. In addition, it appears that the Council repeatedly informed the applicant that the details which had been submitted to discharge the conditions were, in its opinion, not sufficient. Notwithstanding this, it seems that very similar details with only minor revisions were submitted as part of the application which is the subject of this appeal.
 9. The PPG states that conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects³. It is therefore vital that the Council is content that the details submitted are sufficient to meet the specific requirements to be able to discharge the conditions. On this basis, I am unable to conclude that the Council acted unreasonably in its assessment and determination of the application.
 10. With regard to the length of time taken to validate and determine the application, the evidence submitted indicates that although the application was made on 6 March 2019, it was validated on 27 March 2019 when the payment was made by the applicant. The application was then determined on 22 May 2019, eight weeks after validation. Therefore, I cannot agree that the Council acted unreasonably in the length of time it took to validate and determine the application.
 11. The PPG advises that where Local Planning Authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs. It is reasonable to conclude that this applies to the determination of applications to discharge conditions too.

Conclusion

12. Unreasonable behaviour by the Council resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been clearly demonstrated. Therefore, an award of costs is not justified and the application is refused.

F Cullen

INSPECTOR

² Ref: P/4352/18

³ National Planning Practice Guidance, Paragraph: 001 Reference ID: 21a-001-20140306