



Costs Decision

Site visit made on 27 May 2020

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 August 2020

Costs application in relation to Appeal Ref: APP/Q5300/W/20/3246138 Car Park, Tudor Way, Southgate N14 6PS

- 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 Tom Smith (Rovedale Limited) for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal to give planning permission within the prescribed period for application Ref 19/01779/FUL for the erection of a three story residential block to accommodate 9 dwellings and associated private refuse storage and private cycle storage.
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Decision

1. The application for the award of costs allowed in the terms set out below.

Reasons

2. Irrespective of the outcome of the appeal, the National Planning Practice Guidance (PPG) states that costs may only be awarded against a party who has both behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant states that the Council has behaved unreasonably for a number of reasons during both the processing of the application and the appeal process. This includes delaying providing information, failing to adhere to deadlines and making inaccurate assertions about the proposal's impact.
4. The Council's initial appeal questionnaire was submitted several weeks beyond its deadline. Although it stated that it did not intend to submit a statement of case about this appeal, it provided an officer report on 7 April 2020, beyond the deadline for any such statement. In addition, an amended officer report was then submitted several weeks after this. In taking this late evidence into account, it was necessary to provide further opportunity for the applicant to provide additional comments. This resulted in additional time and effort on behalf of the applicant as he had to produce a rebuttal statement.
5. The applicant has also drawn my attention to various actions of the Council at the time of the planning application. This includes failing to carry out consultations until four months following the validation of the application, failing to provide consultation comments despite verbal and written requests and failing to issue a formal pre-application response. Furthermore, he shows that the Council's questionnaire was originally submitted without various important documents, such as consultation comments and third party representations. The Council has not contested any of this evidence.

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6. The Council has not provided an explanation for any of the identified behaviour or for missing deadlines during determining the application and the appeal process. Overall, I find that it has acted unreasonably in this regard which has caused unnecessary delays and the applicant to incur unnecessary wasted expense at appeal. The failure to issue formal pre-application advice is particularly regretful, given that this would have assisted the applicant with the framing of the main issues for his evidence at appeal.
 7. The Council also concluded that the scheme would result in 'more than substantial harm' to a designated heritage asset. This is not strictly an appropriate weighting as set out within the heritage policies of the National Planning Policy Framework. Furthermore, it applied separation distances illustrated within a development plan policy that were not appropriate for this proposal. However, given I have already found that the Council has acted unreasonably in a procedural sense, I have not considered these substantive matters further as they would not alter the outcome of my decision.

Conclusion

8. I find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described by the PPG has been demonstrated and that a full award of costs is justified.
9. 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 Mr Tom Smith (Rovedale Limited), the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to the Council of the London Borough of Enfield, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

M Heron

INSPECTOR