



Costs Decision

Site visit made on 3 September 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2020

Costs application in relation to Appeal Ref: APP/F5540/W/20/3244838 1 Gould Road, Feltham TW14 8AB

- 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 Tarnjit Grewal for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for demolition of an existing 4 bedroom detached residential property and single storey attached garage. To be replaced with a purpose built block of 8No. flats, 4 x studio flats, 2 x 1 bedroom flats & 2 x 2 bedroom flats. To also include external shared and private amenity spaces, shared bin store, tenant parking and external covered bike storage.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 application for costs relates to the fact that the Council failed to determine the appeal application within the requisite timescale and that during the course of the appeal application they failed to engage with the appellant. A further claim is made on the grounds that the Council have failed to subsequently fully substantiate their case.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. The appellant, in their appeal submissions, has provided a detailed chronology of the progress of the appeal application and outlined their attempts to communicate and seek feedback from Officers on the merits of their application. No evidence has been presented by the Council to explain or justify the apparent lack of a response.
6. In terms of the lack of determination of the appeal application, from the Council's case it appears that it was listed on the Council's Pending Decisions List dated 29 November – 6 December 2019, with a recommendation for

refusal. The Council have confirmed there was no subsequent request for the application to be considered by Committee, therefore Officers were presumably able to issue a decision under their delegated authority once any deadline had passed. However, no decision was issued by the authority, with the resulting appeal submitted on 14 January 2020 and formally started on 27 January 2020.

7. From the evidence it is clear that the Council failed to deal with the appeal application in an acceptable manner, and I can appreciate the frustration this delay caused the appellant. However, it was apparent from the publication of the Pending Decision List that the application was to be refused, therefore the only recourse of action would be the submission of an appeal, or a revised scheme. Furthermore, I also note that the appellant sought pre-application advice, which raised concerns with regards to certain elements of the scheme. Therefore, whilst the failure of the Council to determine the application within the requisite timescale is unreasonable, I do not find that it has put the appellant to unnecessary or wasted expense.
8. Subsequent to the submission of the appeal, the Council provided details on the decision it would have taken had it made a decision on the application, and provided evidence in relation to these, albeit this and the supporting information was submitted well after the deadline set out at the start of the appeal. It will be seen from my formal decision that I have found the appeal scheme would result in harm to the character and appearance of the area. It therefore seems to me that the Council has clarified its objection to the appeal scheme, albeit late in the process, which it has substantiated during the appeal process, and this does not amount to unreasonable behaviour.
9. With regards to the late submission of the information, this is unhelpful, however it is understood and recognised that during this time Councils were having to deal with the unique circumstances arising from the COVID 19 pandemic. Furthermore, I note that, despite the lateness of the submission, the appellant was still able to review these and provided with the opportunity to submit further comments. In this aspect therefore, I do not find that the appellant was put to any unnecessary or wasted expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Adrian Hunter

INSPECTOR