
Costs Decision

Site visit made on 2 October 2020

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020.

Costs application in relation to Appeal Ref: APP/M5450/D/20/3252196 76 Birchmead Avenue, Pinner HA5 2BH

- 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 Mark Reeves for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for outbuilding for use as double garage, gym and storage area, ancillary to the main house.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. The applicant considers that they were only able to make the appeal on the basis of the contents of the decision notice as the officer's report was unavailable until some time after the decision was published.
4. The council, in their response to the application for costs, have accepted that many of the policies listed in the decision notice were included in error. However, the council also content that the officer's report made it clear which policies were offended by the proposed development.
5. The applicant has included an e-mail dated 20 April 2020 from the council which clearly states that the officer's report had not been finalised. However, the decision notice had already been issued by the council and was dated 3 April 2020.
6. A decision notice is an important legal document and not only informs what development can take place, together with any planning conditions, it also forms the basis for an appeal, should it be considered appropriate.
7. Whilst I have no doubt the council would have reached the same conclusion (had the decision notice had been correct), it is clear that the appellant has been disadvantaged by having to explore what was an erroneous case of the council, as set out in the decision notice. In my view this would have led to some confusion on the part of the appellant and wasted effort.

8. The council's officer report which formed the basis of their case does include policies I consider would be relevant to the determination of the appeal. However, this report was not made available to the appellant for some time after the decision notice had already been issued and work had been undertaken. I also note that the council did not seek to remedy the errors in the decision notice during the course of the appeal, nor did it provide copies of the correct policies within their submissions.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has been demonstrated and that a full award of costs is justified.

Costs Order

10. 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 Harrow shall pay to Mr Mark Reeves, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the Council of the London Borough of Harrow, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Sian Griffiths

INSPECTOR