
Costs Decisions

Site visit made on 6 October 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Costs application in relation to Appeal Ref: APP/R5510/W/20/3246164 13A North Common Road, Uxbridge UB8 1PD

Application A

- 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 Gary Wynne of Trafalgar Properties for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for erection of 5 two storey, 3-bed, attached dwellings with associated parking and amenity space, involving demolition of existing detached house.
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Application B

- 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 the Council of the London Borough of Hillingdon for a full award of costs against Mr Gary Wynne of Trafalgar Properties.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for erection of 5 two storey, 3-bed, attached dwellings with associated parking and amenity space, involving demolition of existing detached house.
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Decisions

1. Application A for an award of costs is refused.
2. Application B for an award of costs is refused.

Background

3. 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.

Reasons

Application A

4. PPG indicates that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. It also refers to a lack of co-operation with the other party or parties delay in providing information.
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5. The application was with the Council for some time before the appeal was submitted. I understand the sense of frustration which delays might have caused the appellant with regard to this and that the initial recommendation was for granting of planning permission.
6. While not to the appellant's satisfaction, from the evidence before me there appears to have been some dialogue between the parties during the course of the application and appeal. This includes providing advice along with seeking to resolve certain issues and with regard to a planning obligation. While not all issues were addressed to the Council's satisfaction, this did overcome some of their concerns.
7. The Council have provided reasons for their opposition to the proposal against development plan and national planning policies and maintained their opposition to the scheme during the appeal process. Therefore, even if they had made a decision on the proposal, there is no compelling evidence that this would have led to permission being granted and thereby avoiding the need for the appeal.
8. As a result, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Application B

9. PPG also provides examples of when a substantive award of costs may be made against the Council. An appellant will be at risk of an award of costs where an appeal or ground of appeal had no reasonable prospect of succeeding.
10. Whether a planning obligation was necessary formed part of my assessment of the appeal. In this instance, I considered one was necessary and ultimately, a completed planning obligation was not provided. This was one of the reasons for dismissing the appeal.
11. Notwithstanding this, the provision of a completed planning obligation is not required at the time of an appeal being submitted. Therefore, the Council would have needed to follow the appeal process in any event. It is therefore not clear what additional costs the Council have incurred. In addition, I note the appellant's willingness to enter into an obligation and the continuing dialogue with regards to one being completed.
12. As a result, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Stuart Willis

INSPECTOR