



Costs Decision

Site visit made on 5 November 2020

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2020

Costs application in relation to Appeal Ref: APP/M5450/W/20/3252162 Land South of Anmer Lodge, Stanmore HA7 4EB

- 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 Design Collect Ltd for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of failure of planning permission for the development of a five-storey building to provide 302sqm commercial office space (Use Class B1a), nine residential dwellings (Use Class C3), undercroft parking, refuse and cycling storage and landscaping.
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Decision

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

Reasons

2. The 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 process. Awards can be based on either procedural or substantive matters.
3. The appellant asserts that in determining the application, the Council has been inconsistent in their decision making. To support this claim, they refer to two recent approvals and cite apparent similarities in the proposed access arrangements. They also suggest that the Council failed to provide adequate justification to support the different approaches taken, and also failed to provide constructive feedback at pre-application stage which has stifled the delivery of development. In addition, the appellant refers to other 9 unit schemes to which the Council has not raised an objection due to housing mix.
4. The appellant also points to a lack of proper engagement, failure to provide constructive feedback, and working to poor timescales in the assessment of the application. In doing so, the appellant considers that the Council was uncooperative in their approach.
5. In relation to the pedestrian accesses, as identified in the main decision, I am satisfied that there are material differences with the Notting Hill scheme. Moreover, I do not have the full details of the Stanmore House development before me and as a consequence, I cannot directly compare the access points. However, based on the evidence before me, I am satisfied that it does not point to inconsistent decision making on behalf of the Council. Accordingly, I

am satisfied that in this regard, unreasonable behaviour as described within the PPG has not been demonstrated.

6. Nevertheless, I have already found that there is little compelling evidence to support the second refusal reason provided by the Council. No information has been provided in relation to housing need to support the refusal and as a consequence, I find that the Council have failed to substantiate its case in relation to this matter. Accordingly, based on the evidence before me, the decision is based on vague assertions and therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that therefore, a partial award of costs is justified.
7. In relation to the matter of cooperation, clearly this is a matter that is promoted by the National Planning Policy Framework. However, simply because a Council does not engage in the manner expected by the other party, this does not justify an award of costs.

Costs Order

8. 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 Design Collect Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to housing mix considerations; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. 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.

Martin Chandler

INSPECTOR