
Costs Decision

Site visit made on 8 September 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2020

Costs application in relation to Appeal Ref: APP/M5450/3253108 22 Barchester Road, Harrow HA3 5HH

- 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 Rizwan Gowin for a partial award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for a first-floor rear extension that will increase the bedrooms from the existing 7 to 8 bedrooms with en-suite bathrooms for 16 occupants.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, the National Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.¹
3. In summary, the applicant contends that, as the appeal reference given in the Council officer's report was incorrect, they were unable to fully assess the relevance of the appeal referred to until the stage at which the Council acknowledged the error and submitted the correct reference, which was later in the appeal process. The appellant's agent had to spend time responding to the correct appeal following confirmation of the error from the Council
4. The Council has acknowledged the error. I note that in the Council officer's report, as well as an appeal reference being provided, all-be-it an incorrect one, the address of the appeal site to which the Officer was referring was also provided, ie 4 Rippon Gardens. I also note that via the publicly accessible Planning Inspectorate's Appeals Casework Portal (ACP), which the appellant's agent may have been aware of, copies of appeal decisions can be readily obtained using, for example, the first line of an address in the search facility. However, as I am not able to conclude with certainty that the appellant's agent was aware of the ACP, I am not able to conclude that the appellant would have accessed the correct appeal decision prior to submitting their statement of case.

¹ Paragraph 030 Reference ID: 16-030-20140306, revision date 06 03 2014 – National Planning Practice Guidance.

5. I acknowledge that the Council's judgement regarding the proposal, and its assessment of it against relevant policies, is provided in the officer's report. I am satisfied that the officer understood the proposal and assessed it accordingly.
6. However, I consider that as a result of the error, the Council could not reasonably have expected the appellant to be able to fully and accurately respond to appeal details noted in the officer's report, when initially submitting their statement of case, which were referenced to underpin one of the reasons for refusal. Furthermore, as noted, the appellant's agent had to spend time responding to the correct appeal following confirmation of the error from the Council. I consider this to amount to unreasonable behaviour by the Council, and that unnecessary and wasted expense of the appellant in dealing with the appeal, as described in the PPG, has been demonstrated and therefore an award of partial costs is justified.

Costs Order

7. 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 London Borough of Harrow shall pay to Mr Rizwan Gowin, the costs of the unnecessary time spent and the expense incurred by the appellant in the appeals proceedings, described in the headings of this decision, as a result of the unreasonable behaviour outlined.
8. The appellant is now invited to submit to 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. If 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.

J Williamson
INSPECTOR