



Costs Decision

Site visit made on 13 October 2020

by A Denby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2021

Costs application in relation to Appeal Ref: APP/R5510/W/19/3243953 190 Joel Street, Northwood, HA5 2PF

- 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 R Patel 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 demolition of existing building and erection of a three-storey building and basement house 1 replacement and 7 new dwellings with associated bins, cycle and alterations to existing drop kerbs.
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Decision

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

Reasons

2. 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. Paragraph 048 of PPG states 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. In any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period'.
3. The determination deadline for the planning application was 23 December 2019. The application for costs is made on the basis that the Council did not at any point up to the expiry of the determination period, request an extension of time, engage in any positive manner with the appellant or highlight any concerns with regards to flooding.
4. In addition, the applicant states that following the appeal submission on 24 December 2019 they only became aware of the Council's case and concerns with regards to flooding when they submitted their statement to the appeal, some 6 weeks after the appeal start letter. The applicant contends that it was then necessary for them to produce, at speed, a Flood Risk Assessment (FRA) in an attempt to address this matter. Furthermore, the applicant considers the Council have failed to substantiate concerns raised in relation to parking provision and have not fully considered a previous Inspector's decision for development on the site.

5. The Council have stated that, in accordance with their standard practices, their intended reasons for refusal, including flooding, were shared with the applicant in advance of a decision being made, though following this the appeal process was engaged by the applicant before they could issue any formal decision.
6. The Council, in their questionnaire to the appeal, did advise there was no delegated officer report, though they did state that the policies they would rely upon included those relating to flooding. They also included a copy of the response to the scheme from the Flood Officer, which clearly stated there was an objection to the planning application on flooding grounds, and that a FRA would be required. The provision of one with the appeal documents would therefore naturally follow to seek to argue a counter position and as such I could not agree the cost associated therewith would be unnecessary. Be it produced at speed or otherwise.
7. Although the Council could have been more helpful by clearly setting out the intended reasons for refusal at an earlier stage, there seems to have been sufficient detail to indicate that flooding was a concern and thus arm the applicant with sufficient information in this regard. In its subsequent statement, the Council did clearly indicate the 3 reasons as to why it would have turned down the proposal and provided full and substantiated reasoning as part of their statement, as well as making a response to the FRA submitted to the appeal.
8. The applicant states that flooding was not raised on a previous appeal scheme. It was nonetheless raised as a concern with the current scheme which, unlike the previous, includes the lowering of ground levels and basement accommodation. I have drawn contrast with the appeal scheme and a previous decision in my findings on the appeal in this regard, issued separately to this decision.
9. With regards to parking provision it does appear that the Council's assessment was on the basis of a slightly higher level of provision being required. On my assessment that figure appears to be incorrect. There is also little to indicate that the Council gave full consideration of other matters such as the site's location in terms of access to services and public transport. However, there is nothing sufficiently detailed to suggest that the applicant incurred any further expense in defending this matter at appeal.

Conclusion

10. With the above in mind, the requirements for an award of costs to be granted, as set out within the PPG, have not been met. The application therefore is accordingly refused.

A Denby

INSPECTOR