
Costs Decision

Hearing Held on 16 March 2021

Site visit made on 21 March 2021

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Saturday, 08 May 2021

Costs application in relation to Appeal Ref: APP/Y5420/W/20/3260114 10 Gourley Street, Tottenham, London, N15 5NG

- 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 Twin Attitude Limited for a partial award of costs against the Council of the London Borough of Haringey.
 - The hearing was in connection with an appeal against the refusal of planning permission for roof extension to provide 2 additional floors.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals are expected to meet their own costs. Costs can be awarded where, amongst other things, the following conditions apply: the party against whom a cost award is sought has behaved unreasonably and that unreasonable behaviour has caused the party applying for the costs to incur wasted or unnecessary expenditure in the appeal process.
3. The applicant has argued that the Council added new heads of terms to the proposed legal agreement at a late stage in the appeal process and this has caused the applicant wasted or unnecessary expenditure to further review the Council's policies and guidance on these matters.
4. The applicant has supplied a list of the 13 'new' heads of terms that it alleges were added to the draft legal agreement at a late stage.
5. The notice of decision refusing planning permission and the officer's report referred to the need for the applicant to enter into an agreement under s106 of the Town and Country Planning Act 1990. This agreement would secure local labour and training initiatives, sustainable transport initiatives and a financial contribution towards carbon offsetting. All these requirements would help to mitigate the effects of the development on the local area. I have dealt with their compliance with the necessary regulations and the provisions of the National Planning Policy Framework (the Framework) as part of the decision on the appeal proposal.

6. Therefore, the unreasonable behaviour that led the applicant to incur wasted or unnecessary expenditure relates wholly to the alleged introduction of additional heads of terms at a late stage in the appeal process.
7. In order to understand the process and therefore arrive at a decision on the applicants claim it is necessary to explain a little more of the process for moving from the requirements set out in the officers report on the planning application and the notice of decision to an effective and enforceable s106 agreement.
8. The officers report and the notice of decision refusing planning permission for the appeal proposal do not contain 'heads of terms' which can simply be placed in a legal agreement. More detail is needed in order to frame an effective legal agreement. These details would include such things as the precise measures which would be required to address the concerns related to local labour and training, transport initiatives and carbon offsetting. Such details might include financial contributions or specific actions which the appellant should take.
9. It would not be appropriate to include these details in either the officer's report or the decision refusing planning permission for the development. This is because it would add to the length of these documents and in any case, it is more appropriate that these details are dealt with through negotiation between the parties.
10. I have examined the 13 alleged 'new' heads of terms set out by the applicant at paragraph 1.7 of their costs claim. It is clear to me that all these detailed requirements relate in one way or another to the broad requirements, to be incorporated in a s106 agreement, set out in the reason for refusal and the officer's report. In this respect they are not 'new' but set out the details required to produce an effective and enforceable s106 agreement.
11. Consequently, I do not consider that the Council behaved unreasonably by introducing these precise requirements during the course of negotiations with the applicant over the content of the s106 agreement. Moreover, the appellant has not incurred wasted or unnecessary expenditure in seeking to address these requirements as they would have needed to be addressed in order to arrive at a s106 agreement that was capable of being signed by both parties.
12. I therefore conclude, having taken into account the matters raised by the applicant, as required by paragraph 033 of the PPG, that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expenditure has not been demonstrated by the applicant. For this reason, an award of costs is not justified.

Peter Mark Sturgess

INSPECTOR