



Costs Decision

Site visit made on 11 November 2020

by Jan Hebblethwaite MA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 May 2021

Costs applications in relation to two Appeals Refs:

(Appeal A) APP/M5450/W/20/3248479 and

(Appeal B) APP/M5450/W/20/3248941

Land adjoining 48 Radley Gardens, Harrow HA3 9NY.

- The application for costs on both appeals 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 applications are made by Mr Lalji Hirani (the appellant) for a full award of costs in both appeals against the London Borough of Harrow Council.
 - Appeal A was against the refusal of the Council to approve details reserved by condition 7 of planning permission P/1873/19 for the erection of a two storey dwellinghouse (1 x 3 bed); detached garage at rear; proposed vehicle crossover; bin and cycle stores; boundary treatment (demolition of garage) ("the Original Permission").
 - Appeal B was against the refusal of the Council to approve details reserved by conditions 4, 5 and 6 of the Original Permission
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Decision

1. The applications for an award of costs in relation to Appeal A and Appeal B are refused.

Reasons

2. The Planning Practice Guidance advises that costs may 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.
3. The decisions made by the Council were that the details submitted in relation to each condition were insufficient to properly discharge those conditions.
4. In both appeals the Appellant has claimed a full award of costs on the basis that the appeals should not have been necessary, had the Council contacted the Appellant's agent to request further information in support of the applications.
5. The Appellant's agent has submitted an email chain which dealt with both applications, starting with an email dated 20 December 2019 which asked whether anything further document was required. Next is an email dated 6 January 2020 which again asked whether anything further was required. The Council replied on 7 January, explaining that the Council's drainage engineer had been away and had only returned to the office on that day. The Appellant's agent emailed again on 8 January asking whether the drainage engineer had commented and whether anything further was required. A further email was sent to the Council on 9 January stating that a decision was due that day and as nothing further had been heard from the Council, it was assumed that the applications would be approved.
6. In relation to the costs application relating to Appeal A, the Council has responded that whilst it generally will consider amendments to applications for approval of details

- required by conditions, they would be minor in nature. In condition 7, the details required were specified in the condition. I have concluded that the details submitted by the Appellant's agent did not meet those requirements.
7. I note from correspondence submitted just before the site visit took place, that satisfactory details for condition 7 including cross sections, had been submitted to and approved by the Council in May 2020.
 8. The lack of response by the Council to the pre-Christmas email request was unfortunate, but as the required details must have been known to the Appellant's professional agent before the details were prepared, I do not consider that unreasonable behaviour by the Council resulting in the Appellant incurring unnecessary cost and/or wasted expense has been demonstrated. The costs application in relation to Appeal A is refused.
 9. In relation to the costs application on Appeal B, the Council has submitted no further comments. The Appellant has submitted the same email chain as sent with Appeal A, and has added three earlier emails. The first is from the Council and is dated 20 November 2019. It acknowledges the application dated 14 November and confirms that it was being considered. The email states that the application would be either deemed valid, or if not, further information would be requested.
 10. The second email dated 29 November 2019 was from the Appellant's agent to the Council querying whether the application had been validated. The third email dated 3 December was from the Council. This email confirms the validation date to be 14 November (almost a week before the email explaining that the validation procedure was being undertaken) and that the expiry date (for the decision to be issued) was 9 January 2020.
 11. There was apparently some confusion as to the validation date but that does not amount to unreasonable behaviour under paragraph 032 of the PPG¹.
 12. As with Appeal A, the lack of response by the Council to the requests for a discussion is unfortunate. However, the Council stated in its costs response to Appeal A that it has a pre-application service and a separate pre-application drainage service, but that the Appellant's agent did not use the service before submitting the applications for approval of details. If the Appellant's agent had any concerns about the content and extent of the material required by the condition, then a pre-application discussion would have resolved the matter.
 13. In the absence of manifest error in an application, the Council is entitled to consider the submissions made on behalf of an applicant as being sufficient for the Council to determine the application. The Council would not expect to provide an advisory service after submission of an application, and to fail to provide information to an appellant to correct a deficient application is not unreasonable behaviour justifying an award of costs.
 14. In relation to Appeal B I do not find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated.

Jan Hebblethwaite

INSPECTOR

¹ Planning Practice Guidance