



Costs Decision

Site visit made on 18 May 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2021

Costs application in relation to Appeal Ref: APP/M5450/W/20/3258533 Pinn Cottage, Pinner Hill, Pinner HA5 3XX

- 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 Akhtar for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the development proposed is a two storey side and rear extensions including an increase in roof height and including a front porch.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. Costs may be awarded to any party regardless of the outcome of the appeal. Patently this is a two-stage test. The PPG also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process.
3. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded. An award of costs may either be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. Paragraph 049 of the PPG cites various examples of unreasonable behaviour that could apply to local planning authorities.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal or with respect to procedural matters by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
5. The applicant submits that the Council has acted unreasonably by preventing or delaying development by failing to make a determination on the planning application within the statutory timeframe and to a lack of engagement by the Council during the application process. As a matter of procedure, I cannot take into account the submission of an additional application, as I can only take into

account in this instance, the failure of the Council to issue a decision within the statutory timeframe, the asserted lack of engagement and the subsequent appeal that the applicant has submitted.

6. The appeal form indicates that the planning application was submitted on 15 April 2020, although I note that the date of declaration on the application form is 18 April 2020. Nonetheless, it is common ground that the target decision date for the application was on 1 June 2020. The applicant appealed on the grounds of the Council's failure to determine the application on 28 August 2020.
7. The Council gave an indication in its statement that it would have refused the application for planning permission on the grounds that the proposed development would harm the Green Belt through its inappropriateness and effect on openness. Additionally, it was put forward that the proposed development would harm the character and appearance of the appeal site and failing to preserve or enhance the Pinner Hill Conservation Area (PHECA) and the Harrow Weald Ridge Area of Special Character (HWRASC).
8. The Council has not given a reason for its failure to determine the application within the relevant period. However, it has defended the level of engagement with the applicant during the course of the application's assessment. Whilst the level of communication is disputed by the applicant, I find that on the balance of probabilities that there was some communication between the main parties during the application process. Nonetheless, the delay caused by the Council's failure to determine the application within the statutory framework was excessive and constitutes unreasonable behaviour. However, the indication is that had the decision been made in a timelier fashion it is likely that the applicant would have still had to appeal in any event.
9. It will be seen from the decision in the appeal that I reached a similar conclusion to the Council with regard to the impact of the proposed development on the Green Belt and on the character and appearance of the PHECA and the HWRASC. Having regard to this, while the Council acted unreasonably by delaying determination, it did not delay development that should have been permitted having regard to the policies in the development plan, national policy and other material considerations. Thus, whilst the Council's behaviour was unreasonable, it did not cause the applicant to incur wasted costs as the appeal was inevitable in any event.

Conclusion

10. On the basis of the evidence before me, I conclude that it has not been demonstrated that the Council's unreasonable behaviour caused unnecessary or wasted expense in so far as an award of costs could be justified. I therefore determine that the costs application should fail and no award is made.

W Johnson

INSPECTOR