

Costs Decision

Site visit made on 15 November 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2021

Costs application in relation to Appeal Ref: APP/A5270/W/213274128 296 Church Road, Northolt UB5 5AP

- 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 Daniel Dhaliwal for a full award of costs against the Council of the London Borough of Ealing.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. Local Planning Authorities are encouraged, through the PPG, to exercise their development management responsibilities by relying only on reasons which stand up to scrutiny on the planning merits of the case.
3. In this instance, the Council did not determine the planning application. In addition, the Council did not in the appeal process submit a Statement of Case identifying whether it would have approved the application or, if not, identifying any putative reasons for refusal.
4. In consequence, the applicant was compelled to enter into appeal proceedings given that it was necessary for a determination of the planning application in the absence of a substantive position by the Council being established. Moreover, the Council has not used the appeal process to explain its views.
5. Therefore, the lack of any reasoning by the Council that stands up to scrutiny amounts to unreasonable behaviour. In consequence, this amounts to wasted expense that may have been avoided by determining the planning application, or by establishing their position at an earlier stage in the proceedings.
6. I am aware that the appellant agreed to an extension of time for the determination of the planning application. However, this only represents an element of the process. Therefore, this agreement does not forego the requirement on the Council to establish reasons for the determination of a planning application that stand up to scrutiny.

7. I acknowledge concerns raised by the Council regarding some of the additional expenses incurred by the applicant. However, it is clear that the applicant was compelled to submit the appeal owing to the actions of the Council. In consequence, the concerns raised by the Council does not allow me to disregard the unreasonable behaviour arising from the Council's failure to substantiate its position.
8. In consequence, this amounts to unreasonable behaviour. Therefore, the applicant was put to unnecessary expense in pursuing an appeal.

Conclusion

9. I have found that the Council acted unreasonably by not providing reasons for its position on the planning application which stand up to scrutiny. Accordingly, I conclude that an award of costs to contest the appeal is justified.

Costs Order

10. 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 Council of the London Borough of Ealing shall pay to Mr Daniel Dhaliwal the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the Council of the London Borough of Ealing, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Benjamin Clarke

INSPECTOR