The Planning Inspectorate

Costs Decision

Site visit made on 8 November 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th April 2022

Costs application in relation to Appeal Ref: APP/H5390/W/21/3278277
The Fulham Centre, 20 Fulham Broadway, London SW6 1AH

- 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 Jody Bishop (Romulus Construction Ltd) for a full award of costs against the Council of the London Borough of Hammersmith & Fulham.
- The appeal was against failure to give notice within the prescribed period of a decision on an application under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.

Decision

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

Reasons

2. Irrespective of the outcome of an appeal, Planning Practice Guidance (PPG)[1] 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.

3. The claim for costs is made on the grounds that the appeal was unnecessary. There is concern that the Council's putative reasons for refusal were in contrast to an earlier committee report where officers had recommended that permission should be granted.

4. I am in receipt of the committee report which recommends that the committee resolve that the Chief Planning Officer be authorised to grant permission for the application to which the appeal relates subject to conditions.

5. It then seems that officer thoughts on the application changed, as evidenced within the statement of case. However, even if a new report recommending refusal had been prepared, the outcome, had the application further run its course and been presented to the committee, will never be known.

6. It is not infeasible that the committee could have resolved to approve the application, in which case the subsequent appeal would not have been necessary.

7. I can understand the frustration of the appellant that two putative reasons for refusal were put forward in response to the appeal having previously viewed the committee report which recommended approval. However, whilst I did not

[1] Paragraph: 030 Reference ID: 16-030-20140306

agree with those reasons, the Council have provided reasonably cogent justification for putting those putative reasons forward within their statement of case.

8. The appeal against non-determination was instigated by the appellant and the extent of information that was required to counter the argument of the Council was a matter for the appellant to determine. In any event, as can be seen from the outcome of the appeal, which was dismissed, albeit for other reasons, it cannot be said that the appeal was unnecessary.

Conclusion

9. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

T J Burnham

INSPECTOR