



Costs Decision

Site visit made on 20 January 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2023

Costs application in relation to Appeal Ref: APP/Y5420/W/22/3306549 Unit 31-32 Peacock Industrial Estate, White Hart Lane, London N17 8DT

- 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 London Borough of Haringey for a full award of costs against Mr Dervis Aslan.
 - The appeal was against the refusal of planning permission for extension on top of the existing property with an additional storey.
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Decision

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

Reasons

2. Paragraph 030 of 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.
3. Paragraph 053 of the PPG states examples of unreasonable behaviour by appellants in terms of substantive matters. These include when the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence; and when an appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period. The Council have applied for costs on these two substantive matters.
4. The appellant, who's business has been going for some 23 years, has expressed their insufferable frustration around the nine year period on waiting for progress on the masterplan for the area. Reference is also made to the last sentence of paragraph 12 of appeal decision ref: APP/Y5420/W/21/3273446 which describes a reasonable timescale for implementation of the masterplan being a relevant matter for consideration.
5. Whilst more time has elapsed since the previous appeal decision, further work has also progressed towards the implementation of the masterplan with a key factor being the approval of planning application ref: HGY/2021/3175 in August 2022 which details specific development that covers the appeal site and forms part of the masterplan.

6. Policy DM55 of the Haringey Development Management DPD 2017, Policy AAP1 and Site Allocation NT5 of the Tottenham Area Action Plan 2017 are clear in terms of their aims and the proposed development would clearly not be in accordance with the development plan policies. The submission and approval of permission ref: HGY/2021/3175 indicates that there is progress on the masterplan and regeneration of the area.
7. Appeal decision ref: APP/Y5420/W/21/3273446 is for a similar development at substantially the same site that decided the proposal was unacceptable and circumstances have not materially changed in the intervening period.
8. From the evidence before me, I consider that the appellant has acted unreasonably as the appeal had no reasonable prospect of succeeding given the development is clearly not in accordance with the development plan and the details of the recent dismissed appeal decision.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs 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 Mr Dervis Aslan shall pay to London Borough of Haringey the costs of the appeal proceedings described in the heading of this decision.
11. The Council is now invited to submit to the appellant, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Chris Baxter

INSPECTOR