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## Costs Decision

Site visit made on 24 January 2023

**by V Simpson BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 February 2023**

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### **Costs application in relation to Appeal Ref: APP/F5540/W/22/3306231 Watchfield Court, Aintree Lodge, Chiswick, Hounslow, London W4 4JS**

- 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 and Mrs A and S Raffel for a full award of costs against the Council of the London Borough of Hounslow (the Council).
  - The appeal was against the failure of the council to determine the application for a replacement dwelling together with amenity and parking
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### **Decision**

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

### **Reasons**

2. Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Unreasonable behaviour can relate to procedural matters (the process) or substantive matters (relating to the planning merits of the appeal).
3. Paragraph 47 of the PPG provides examples of unreasonable behaviours by local planning authorities (LPA) relating to procedural matters. These include, lack of co-operation with the other party or parties; delay in providing information, and failing to determine planning applications and delaying development which should clearly be permitted.
4. Paragraph 48 of the PPG indicates that in any appeal against non-determination, the Council should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period. Where in such cases the appeal is allowed, the LPA may be at risk of an award of costs, if the Inspector finds that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether.
5. The applicant submits that the Council exhibited unreasonable behaviour by not making a decision within the prescribed time limits, and by failing to co-operate effectively with the applicant.
6. The evidence indicates that the applicant sought guidance from the Council regarding the acceptability of the scheme, and that at the time of submitting

the appeal they had no reason to consider that the application would not be determined positively.

7. Whilst the LPA did request the applicant's agreement to an extension of time for the determination of the application, I have been provided with no evidence demonstrating that they had provided a reason for not determining the application within the prescribed time.
8. The Council has not provided a rebuttal to the cost claim. However, within their evidence in respect of the appeal they have indicated that had the application been determined by themselves, then it would have been refused. It will be seen from my decision on the planning appeal, that I have agreed that there were sufficient grounds for refusing planning permission had the application been determined.
9. I understand the consternation felt by the appellant as a result of the Council's failure to determine the application in a timely manner, or to communicate effectively with the applicant whilst considering the application.
10. The Council could have given better and more timely communication to the applicant prior to either the end of the prescribed period or the submission of the appeal, and by failing to do so, they have demonstrated unreasonable behaviour. However, given that the appeal has been dismissed, I cannot conclude that such communication would have prevented an appeal from being necessary.
11. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary or wasted expense to the applicant during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not therefore justified.

*V Simpson*

INSPECTOR