



Costs Decision

Site visit made on 18 January 2023

by J Wellstead BA(Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2023

Costs application in relation to Appeal Ref: APP/M5450/W/22/3305179 34-38 Pinner Road, Harrow, HA1 4HZ

- 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 Harrow for a full award of costs against Hencap (West Country) Limited.
 - The appeal was against the refusal of planning permission for the change of use of existing building to supported housing (*Sui Generis*).
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Decision

1. The application for an award of costs is refused.
2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and this unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The application for costs was submitted after the deadline. However, I accept that this was due to a genuine misunderstanding following a deadline extension request by the appellant on another matter.
4. This application relates to the appellant having submitted a materially different proposal to that submitted and assessed under the original application which resulted in wasted officer time in processing and responding to the appeal.
5. Whilst the appeal included more details than the initial planning application it is reasonable for this to be the case as the appellant has sought to defend their stance during the appeal. There have been some changes to the scheme between the application and appeal stages, but these changes have been a consequence – at least in part – of the delays to processing the initial planning application by the Council.
6. The biggest of these has been a change of operators from Big Help to Lotus Sanctuary and I accept that the change in approach due to the switch of operator has not helped the clarity of the proposed scheme in this case. However, the appellant highlights that this directly resulted from the length of time the application took to determine, leading to the initial operator withdrawing and the new operator providing a different scheme, still within the broader class use of supported housing. Therefore, I do not consider that the appellant has acted unreasonably in adjusting their proposals due to this issue which was outside their control.
7. As set out in the decision, I have had regard to the Wheatcroft Principles on the basis of the plans submitted to the applicant and upon which it based its

decision, which have been subject to consultation and not the suggested amendments. I accept that a materially different proposal can amount to unreasonable behaviour under the costs regime, and that a new planning application would be an appropriate procedure for progressing a scheme which is materially different rather than the appeal system. Nevertheless, from the evidence before me it appears that the delays in processing the initial planning application, LPA staffing issues and responding to the need to address the issues raised by the applicant contributed to the need to change the scheme, rather than this being a result of wilfully un-cooperative behaviour on the part of the appellant.

8. The applicant has raised to my attention that the appellant has not sought their right to appeal on the grounds of non-determination. However, it is the appellant's decision whether or not to exercise their right to an appeal on non-determination grounds.
9. The applicant also questions what grounds the appeal would have been made on if the proposed operator had not changed, and whether the information supplied would be any different to what has been submitted. However, I must make my decision on the evidence before me and the information that has been submitted.
10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

J Wellstead

INSPECTOR