



Costs Decision

Site visit made on 19 January 2023

by Alec Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th April 2023

Costs application in relation to Appeal Ref: APP/T5150/W/22/3304171 574 High Road, Wembley HA0 2AA

- 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 GB Wembley Limited for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended) for the change of use from light industrial (Class E) to 3 residential units (Class C3).
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Decision

1. The application for a full award of costs is refused.

Reasons

2. 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. Unreasonable behaviour may be procedural and/or substantive.
3. The appellant's claim alleges that the unreasonable behaviour is both procedural as it relates to the process and substantive as it relates to the issues arising from the merits of the appeal.
4. As explained in detail in the associated appeal decision, the Council were correct to refuse to grant prior approval as the application did not comply with the requirements of Class MA of the GPDO. I note that the email correspondence with the Council identifies that the department was very busy at that time. In finding the appeal scheme did not comply with the requirements of Class MA and issuing a decision within the statutory determination period, I do not find the Council acted unreasonably simply because it was under a heavy workload and was not in a position to provide regular updates. Furthermore, any update provided would have required amended plans and consultation, which could not be guaranteed to meet the relevant statutory determination period. It is, therefore, my view that the council acted in a reasonable manner in determining the application within the statutory time period and are not bound to request further information and therefore the appeal could not have been avoided.
5. The appellant also states that the Council did not provide a copy of the Council's officer report, and this report was subsequently prepared following

the decision being issued. It would appear, from the evidence provided, that this report was not published and visible on the Council's website. I have had regard to the screenshots and dates/times provided by the parties. However, I cannot be sure on the balance of probability that the report was not finished and, in fact it was simply unavailable online. As such, this does not constitute unreasonable behaviour, particularly as there is no evidence before me to show a copy of the report was requested and turned down by the Council following the Decision being issued. Had a copy been requested and refused by the Council, this would have been unreasonable behaviour.

6. Furthermore, there is nothing before me to conclude that the reason for refusal and Council's officer report do not substantiate the reason for refusal. It is clear the appellant's case initially focused on the insertion of the external door, which was noted as an informative only. However, the reason given on the Decision notice and explained in detail within the officer report matches my own findings in relation to the appeal decision.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Accordingly, I find that the costs application should fail, and no award is made.

A Hickey

INSPECTOR