



Costs Decision

Site visit made on 11 July 2023

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2023

Costs application in relation to Appeal Ref: APP/M5450/W/22/3306785 59 Graham Road, Harrow HA3 5RP

- 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 Ms Pearl Lestrade-Brown for a full award of costs against London Borough of Harrow.
 - The appeal was against the refusal of planning permission for a loft conversion with two storey side extension to form access.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters, such as providing information that is shown to be manifestly untrue or inaccurate, or deliberately concealing relevant evidence. It also includes substantive matters, such as preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, or failure to provide evidence to substantiate the reasons for refusal.
4. I note that the appellant has provided a note on the costs incurred but has also provided an email (originally addressed to a named officer at the London Borough of Harrow) which forms a basis of complaint about the service received. Where possible, I have looked at these two documents together to gain more information on the complaint provided. To ensure appropriate coverage in one of the points raised in this decision, I have made direct reference to the email mentioned and specific points within it.
5. The application for costs relates to both procedural and substantive matters. The procedural matters centre on the failure to issue a decision in a timely manner and the failure to issue a decision. In addition, the substantive matters raised are that the appellant has had to gain professional advice on the reasons cited for refusal on the planning application and alleged errors made in the officers delegated report.

Procedural Matters

6. The appellant contends that the local authority failed to issue a decision in a timely manner. I note the appellant's frustration regarding the delay but opportunities to apply for non-determination could have been utilised. Furthermore, the local authority did issue a refusal and despite the delay, this would have likely resulted in an appeal in any event.
7. Overall, from the evidence before me, I am not persuaded that the local authority has acted unreasonably in relation to procedural matters.

Substantive Matters

8. The appellant states that seeking professional advice on the reasons for refusal has incurred further costs. The reasons for refusal are stated in the decision notice and a clear explanation of these reasons are given in the delegated officers report. Therefore, I do not see that the local authority have acted in a way which could be deemed to be as unreasonable.
9. The appellant has stated that an email was drafted and provided to the local authority pointed out alleged errors in the delegated officers report. This email was included in the appeal files and I have read this email in full to come to a decision on its content in relation to this matter.
10. Point 1 of the email states that the decision was made which referenced incorrect measurements. Despite this, the proposed elevations illustrate what the final appearance of the proposed development would be. Furthermore, I note in this email that the appellant states that in a previous appeal for a similar development on this site, the Planning Inspector at the time indicated that the application would have stood a better chance of approval if the dormer had been reduced in size. For the avoidance of doubt and in the interest of clarity, I have read this appeal decision¹. Having read the appeal decision, I conclude that this reference was not made by the Planning Inspector.
11. Point 2 of the email states that the language used is confusing. Having read the email and the response from the local authority, I note that an officer took ownership of and apologised for, the error referred to. I do not believe that this could be considered as unreasonable behaviour in the terms set out in the PPG nor that this resulted in unnecessary costs.
12. Point 3 of the email states that the date of the decision notice was the 22 April 2022 and this was subsequently changed to 17 June 2022. From the evidence before me, I note that a decision notice has been provided with the 22 April 2022 dated. I have been provided no alternative decision notice with any other date. I do note that the delegated officers report is dated 17 June 2022. Nevertheless, from the evidence before me, I see no explanation how this error would have created extra costs for the appellant.
13. To conclude, from the evidence before me, I am not persuaded that the local authority has acted unreasonably in either of the substantive matters raised. Consequently, the issue was one of a fundamental disagreement between the parties which could have only been resolved by way of an appeal. As such unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs on this issue is not justified.

¹ Appeal Ref: APP/M5450/W/20/3263932

14. For this reason and taking into account all other matters raised, the application for costs is refused.

J Smith

INSPECTOR