



Costs Decision

Site visit made on 14 June 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2023

Costs application in relation to Appeal Ref: APP/M5450/D/22/3313254 North Lodge, Brookshill, Harrow Weald, Harrow HA3 6RT

- 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 S Nayar for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal to grant planning permission for the demolition of existing side/rear kitchen extension; erection of replacement side/rear single storey extension, accessibility ramp and associated works.
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Decision

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

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 guidance is clear in setting out the circumstances in which a Local Planning Authority (LPA) could be vulnerable to an award of costs against it. It also goes on the advice on the circumstances in which a local planning authority's handling of a planning application prior to an appeal may lead to an award of costs. In this instance the costs application is made on both procedural and substantive grounds which the LPA have not contested. I have determined this costs application accordingly.
4. The applicant claims that the LPA acted unreasonably because it failed to provide the applicant's agent with information relating to their planning application in a timely manner both prior to and following its determination. Thus, it is stated, the Council's officer report and consultation responses were only made available to the appellant at the appeal stage, following the refusal of the planning application, which was not, in any event, determined within the prescribed time period.
5. Although LPAs are under no obligation to publish officer reports, it is good practice to do so, and applicants can reasonably expect to be able to understand how the LPA reached their conclusions. Where appeals proceed on the basis of the Planning Inspectorate's streamlined Householder Appeals Service procedures, as in the case before me, the Council's case is set out within their officer report rather than a subsequent statement. Therefore, the

value of an officer report allows an appellant an early understanding of the reasoning and justification underpinning the refusal reason(s).

6. The applicant has provided emails relating to the planning application and claims that the LPA failed to respond or cooperate in respect of the issues raised. It is also claimed that the LPA also failed to adhere to deadlines to determine the application. In addition, it is argued, that in not publishing an officer report in a timely manner, the reasons for refusal were unsupported by objective analysis.
7. The PPG gives as an example of unreasonable behaviour a local planning authority's delay in providing information and only supplying information at appeal when it was previously requested to do so at the application stage but had not provided that information. The path along which this appeal proceeds has compounded the Council's failure to publish and share the officer report with the appellant at an early stage and has necessitated the appellant submitting a second grounds of appeal to address the Council's detailed reasoning.
8. As a result of these actions, the appeal had to be made without sight of officer report and associated consultation responses. Whilst the applicant was aware of the reasons for refusal on the decision notice and were able to make their initial statement based on these, in terms of fairness the applicant was given the opportunity to provide a further statement as part of the appeal process once the officer report and consultee responses were made available. As such, on procedural grounds, the Council has displayed unreasonable behaviour resulting in unnecessary expense in relation to the appellant's agent's time in the preparation and submission of the second statement addressing the content of the officer report.
9. The appellant's costs application on procedural grounds is wide-ranging and details a range of frustrations with, and the failings of, the Council in its handling of the planning application. From what I have seen and read, the determination of the planning application was chaotic, displayed poor customer service and was far removed from the spirit of the PPG. There was considerable discrepancy between the date of the decision and the date of the Council's officer report with the decision notice initially appearing to have been backdated so as to appear as if determined within the prescribed time period, although this was subsequently rectified once the appeal had been lodged.
10. The applicant's substantive case is made on the grounds that the LPA's decision was unsupported by any objective analysis, relying instead on vague, generalised and inaccurate assertions and that the Council has prevented development that should clearly be permitted. The absence of an officer report provided in a timely manner meant that the appeal was submitted without sight of the Council's detailed reasoning, leading to the appellant's claim that the Council has relied upon vague, generalised or inaccurate assertions about the proposal's impact.
11. The poor customer service and the failure of the LPA to provide the applicant with their officer report and consultation responses at the time of their decision has led to unnecessary time and expense by the applicant in acquiring these and producing an additional statement for the appeal which would not have been necessary had the information been available to them in a timely manner.

Thus, on these substantive grounds, the application for an award of costs succeeds in part to the same extent as that on procedural grounds.

12. The applicant's claim that the proposal should have been clearly permitted, having regard to its accordance with the development plan, is however, without merit. Whilst I have not agreed with the LPA's reasoning, they were entitled to exercise planning judgement with regard to whether or not the extension was a disproportionate addition, even if the question of what is disproportionate is not backed up by development plan policy or guidance.
13. However, whilst the appeal may not have been avoided, the appellant has incurred unnecessary expense arising from the Council's failure to make available in a timely manner the officer report and other matters relating to their decision on the planning application. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a partial award of costs is therefore warranted.

Costs Order

14. 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 the Council of the London Borough of Harrow shall pay to Mr S Nayar, the costs of the appeal proceedings described in the heading of this decision, limited to those costs relating to the procedural and substantive grounds relating to the production of a second grounds of appeal statement; such costs to be assessed in the Senior Courts Costs Office if not agreed.
15. The applicant is now invited to submit to the Council of the London Borough of Harrow whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

KL Robbie

INSPECTOR