



## Costs Decisions

Site visit made on 25 July 2023

by **David Murray** BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

**Decision date: 18 October 2023**

---

**Costs applications in relation to Appeal A Ref: APP/L5240/W/22/3305791 and Appeal B Ref: APP/L5240/W/22/3312168.**

**46 The Glade, Croydon, CR0 7QD.**

---

### Decision

1. The applications for an award of costs are allowed 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. In appeal A the appellant claims that the Council failed to determine the application in a timely manner and did not engage constructively with the applicant in the process. The appellant has therefore had to resort to the unnecessary costs of an appeal and causing delay in the development of the site.
4. The planning application was lodged on the 6 May 2022 and the eight-week period expired on the 1<sup>st</sup> July 2022. It is apparent that the Council wrote to the appellant on the 15 July saying that the application could not be supported but the reasons given for this were general and limited. At that time the Council advised that a decision would be issued in the week of 1-5<sup>th</sup> August. However, this deadline was not met and the appeal against determination was lodged on the 24<sup>th</sup> August 2022.
5. The Council says its poor financial state is well known (referred to by the appellant as bankruptcy) and that it operates its statutory services at a minimum possible level. Within this constraint the Council advises that it has prioritised 'decision making' over communication, which has improved decision making timescales.
6. I understand the financial constraints that the Council is operating within and the focus on decision making but in this case the formal and even the extended timescales for the appellant to get proper feedback on the submitted scheme have not been met.
7. In Appeal B the Council's failure to determine the application within the prescribed period was compounded by the failure to notify the correct parties of the appeal. This led to the local communities' frustration over the planning process and further delayed the appeal decisions.

## **Conclusion**

8. An award of costs may be self-defeating on Council finances and service provision. However, when the appeal A claim is assessed against the guidance in the PPG it is clear that a decision has not been issued in a timely manner nor has there been a constructive discussion on the proposal. This constitutes unreasonable behaviour and it has resulted in the appellant incurring the unnecessary costs of an appeal against non-determination, even though the appeal was dismissed on planning grounds. In appeal B there has been further delay caused by the breakdown of the notification procedure.
9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in both appeals and a full award of costs is therefore warranted.

## **Costs Orders**

### **Appeal A Ref: APP/L5240/W/22/3305791**

10. 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 London Borough of Croydon shall pay to the All Saints Property Group, the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.

### **Appeal B Ref: APP/L5240/W/22/3312168**

11. 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 London Borough of Croydon shall pay to the All Saints Property Group, the costs of the appeal proceedings described in the heading of this decision but limited to the additional work related to the further consultation and response over the late notification of 3<sup>rd</sup> parties. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to the London Borough of Croydon to whom a copy of these decisions has been sent, details of those costs with a view to reaching agreement as to the amount.

*David Murray*

INSPECTOR