



Costs Decision

Site visit made on 7 March 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2024

Costs application in relation to Appeal Ref: APP/K5600/W/23/3327772

1 Cranley Mews, Kensington and Chelsea, London, SW7 3BX

- 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 Tristram Simmonds for a full award of costs against the Council of The Royal Borough of Kensington and Chelsea.
 - The appeal was against the refusal of the Council to grant approval for details required by a condition of a planning permission.
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Decision

1. The application for an award of costs is 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. The applicant is applying for a full award of costs on the grounds that the information submitted to discharge the condition in question was wholly in accordance with the guidance set out in the Council's adopted Supplementary Planning Document (SPD) relating to Basement development. Furthermore, the report to the Planning Committee concluded that the submitted construction traffic management plan (CTMP) complies with the relevant development plan policies and SPD, and therefore recommended that the condition be discharged.
4. Although Planning Committees are entitled to reach a different view to that of their professional advisors, such decisions must still be substantiated. The costs rebuttal states that inadequate measures were proposed in respect of the protection of pedestrians and other highway users from construction activities, access arrangements and measures to minimise noise and dust impact etc. A copy of the committee meeting minutes has also been provided, which does not reflect this reasoning. Condition 4 does not require any details to be submitted to minimise noise or dust and no explanation has been provided as to why the measures put forward by the applicant's professional Highway Consultant, which were acceptable to the Local Highway Authority and Planning Officers, are considered inadequate to protect pedestrians and other highway users from construction traffic.
5. The reason for refusal is vague and unsubstantiated. It does not specify what the submitted CTMP fails to demonstrate, having regard to the specific requirements of the condition or the relevant policies and SPD. It fails to

explain what further measures could reasonably be undertaken to minimise the effects of the necessary construction traffic associated with the development on highway safety and nearby residents.

6. This unjustified and unsubstantiated refusal has led to the need for an appeal, which could have been avoided altogether. This has resulted in wasted costs to the applicant in terms of engaging consultants to submit the appeal.
7. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

8. 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 Royal Borough of Kensington and Chelsea shall pay to Mr Tristram Simmonds 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.
9. The applicant is now invited to submit to the Council of The Royal Borough of Kensington and Chelsea, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Bartlett

INSPECTOR