



Costs Decision

Site visit made on 19 February 2024

by C Livingstone MA(SocSci) (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2024

Costs application in relation to Appeal Ref: APP/Y5420/W/23/3321012 Land to the Rear of 7-8 Bruce Grove, London N17 6RA

- 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 United Properties London Limited for a full award of costs against the Council of the London Borough of Haringey.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission in principle for a residential development up to 9 dwellings with associated open space and landscaping.
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Decision

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

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 claiming costs of the appeal, the applicant submits that the Council has acted unreasonably. It is asserted that the Council failed to conduct the required procedure for the determination of an application for planning permission in principle in accordance with Article 5S of the Town and Country Planning (Permission in Principle) Order 2017, as they failed to give the applicant notice of their decision within five weeks from the submission of a valid application. The Council also failed to provide a confirmation that the application was valid. In the absence of any evidence to suggest that the initial application was invalid, in my judgement the date of validation is 4th January 2023 when the required application fee was submitted to the Council.
4. The applicant also notes that within paragraph 5.28 of their statement of case the Council's claim that "the Council's growth strategy identifies sufficient sites and areas...to accommodate levels of growth anticipated over the plan period." They consider that the information provided by the Council in this respect is misleading as their evidence suggests that the Council can not currently demonstrate a five year housing land supply (5YHLS). Within their statement titled Response by the Local Planning Authority to Application for Costs & Five Year Housing Land Supply Position, the Council confirm that they cannot demonstrate a 5YHLS and can only demonstrate a 3.87 year housing land supply. In failing to demonstrate a 5YHLS their statement that they have identified sufficient sites is misleading, and therefore unreasonable to a degree.
5. Planning Practice Guidance gives further advice as to when local planning authorities will be at risk of an award being made against them. The examples

listed as unreasonable behaviour on procedural grounds include a lack of co-operation with the other party and delay in providing information or other failure to adhere to deadlines. Examples cited as unreasonable behaviour on a substantive basis refer to preventing or delaying development which should clearly be permitted.

6. The Council attributes the reason for the failure to validate or determine the application to the implementation of a 'digital database' in November 2022. However, the application was submitted sometime after this date and as such is not a reasonable justification for a failure to confirm the validation of the application or provide the applicant notice of their decision. In my judgement the Council have acted unreasonably in this respect also.
7. Nonetheless, the Council maintain that as the proposal would result in the development of designated Open Space and a local Site of Importance for Nature Conservation, they would have refused the application.
8. The applicant also asserts that the Council failed to interpret the terms of the Planning Practice Guidance (PPG) correctly in stating that the application for planning permission in principle did not include a signed unilateral undertaking. However, the Council were responding to an example of a previous Appeal provided as evidence. It is clear to me that, in the context of their statement, they understand that any planning obligations would be secured as part of a subsequent technical details consent.
9. While the Council have acted unreasonably in some respects, they would have refused the application. As the proposal is contrary to the development plan it is not considered that the proposal constitutes development that 'should clearly be permitted'. Therefore, if the applicant wished to seek an alternative outcome, they would have needed to submit an Appeal in any case.
10. Overall, having considered the full circumstances of the case, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. As such, there is no justification for making a full or partial award of costs.

C Livingstone

INSPECTOR