



Costs Decision

Site visit made on 3 October 2023

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 APRIL 2024

Costs application in relation to Appeal Ref: APP/B5480/W/23/3318309 11 Kenley Gardens, Hornchurch RM12 6PD

- 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 Millen, Millen Homes Limited for a full award of costs against the Council of the London Borough of Havering.
 - The appeal was against the refusal to grant consent, agreement or approval to details required by condition No 2 of outline planning permission Ref: P0452.22, granted on 25 May 2022.
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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 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 respect of the applicant's first two grounds of claim, given the applicant's intention to discharge planning conditions in the same application as the reserved matters application, I do not find the Council's processing of the application was dilatory. It does not amount to unreasonable behaviour. Similarly, that the Council did not seek specialist advice on trees, given the information available to it, does not amount to unreasonable behaviour.
4. Notwithstanding this, the appellant claims that the Council was inconsistent in refusing their reserved matters application on a matter that should have already been considered at outline stage; behaviour which the PPG says will place an authority at risk of an award of costs. The reason for refusing the application was the absence of sufficient information about the retention and protection of existing trees and landscape features.
5. However, an AIA plan was submitted with the outline application. While the Council claims now that the tree protection was not considered, its decision to grant outline permission was based on the details in drawings which specifically include the tree protection plan. Save for illustrations, where details have been submitted as part of an outline application, they must be treated as forming part of the development for which the application is made.
6. Sufficient information was submitted to assess the landscaping scheme, the details of which I found acceptable in reaching my Decision. The Council is entitled to consider the details of the matter reserved. However, a reserved matters application is not the place to consider matters that should already

have been considered at outline stage. In any event, a condition on the outline permission requires a landscaping plan to include all existing trees and shrubs and details of retention and protection. The behaviour of the Council on this matter was clearly unreasonable. It has resulted in unnecessary expense for the claimant, as described in the Planning Practice Guidance, in making the appeal. A full award of costs is therefore justified.

Costs Order

7. 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 Havering shall pay to Mr Millen, Millen Homes Limited, 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.
8. The applicant is now invited to submit to the Council of the London Borough of Havering, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

L Reid

INSPECTOR