

Costs Decision

Site visit made on 11 June 2024

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2024

Costs application in relation to Appeal Ref: APP/F5540/W/23/3334712 79 Bath Road, Hounslow TW3 3BN

- 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 C Parmar for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was made against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the erection of a part single storey side and rear extension.
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Decision

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

Reasons

2. 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. That the Council should have responded sooner in the application process with its concerns about the proposal is, to my mind, in little doubt. It was not until after the appeal had been lodged on non-determination grounds in early December 2023 that the Council confirmed that planning permission would be withheld in the form of a decision notice. Although more than 5 months had elapsed after receipt of the application in July 2023, there is no indication that the Council explained the reasons for not reaching a decision within the 8-week time limit. By not responding to the application for costs, the Council has also failed to take the opportunity to produce evidence at the appeal stage to explain the delay. While the applicant has referred to a request by the Council for an amended block plan, no substantive reasons have been given to justify delaying the determination.
 4. This approach is some distance from the advice in the National Planning Policy Framework that decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing. The applicant's frustration with the need to recourse to appeal to secure a determination of the proposal as it stood at that time is understandable.
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5. In terms of the issue of unnecessary or wasted expense, the failure by the Council to determine the application led directly to the applicant submitting the appeal. Nonetheless, the decision notice issued shortly thereafter summarises the Council's concerns, which the Officer's report elucidates. While the applicant has referred to assurances given by the Case Officer that the application would be recommended for approval, the evidence clearly lays out the Council's concerns. Given the fundamental difference of opinion between the main parties on the merits of the proposal, I am not convinced that a more favourable decision to the applicant was inevitable or even likely outcome that would have negated the need to appeal and avoid its associated costs.
6. To my mind, the Officer's report provides realistic and specific evidence about the consequences for the living conditions of the occupiers of 77 Bath Road if the development were to proceed. The Council has set out cogent reasons why it would have refused the application, with reference to the relevant development plan policies. While that feedback should have been provided much sooner, the Council's evidence is sufficient to justify its stance.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated, and therefore an award of costs is not justified.

Gary Deane

INSPECTOR