



Costs Decision

Site visit made on 23 July 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2024

Costs application in relation to Appeal Ref: APP/M5450/W/23/3332445 66 Boxtree Road, HARROW, HA3 6TH

- 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 Isaac Jacob Weiss Viger Holdings Limited for a full award of costs against the Council of the London Borough of Harrow.
 - 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 for the change of use from HMO C4 to Sui Generis (Large HMO) for 7 persons.
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Decision

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

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 PPG states that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. The PPG indicates that costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, however, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
4. The applicant's claims for costs are on the basis that the Council did not determine the application within a reasonable timescale and did not communicate to a satisfactory degree with the applicant to give reasons for the delays.
5. Although it is not clear why the planning application received on 3 July 2023 was then only valid on 15 August 2023, the expiry date of the planning application for determination was 10 October 2023.
6. The applicant contacted the Planning Team on Wednesday 11 October requesting an update and was advised to contact the case officer, who was then emailed on the same day. The applicant, having received no response contacted the case officer again on Monday 16 October, Thursday 19 October and Monday 23 October.

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7. Having received no response to the emails, the applicant contacted the case officer on Friday 27 October and advised that they were intending to submit an appeal with a costs application for unreasonable behaviour. A response was not received.
 8. The applicant emailed the Planning Team again on Monday 30 October and was advised to contact a team leader. No response was received and the applicant submitted the appeal three days later on Thursday 2 November 2023.
 9. Although it is clear that the applicant was not advised about the delays between Wednesday 11 October 2023 and Thursday 2 November 2023, I understand that the Council was under pressure due to an internal planning system change. I accept that this can delay the ability to determine applications and respond to queries. In addition the timescale between the emails requesting an update and submission of the appeal was short overall, and particularly short between contacting the team leader and submitting the appeal.
 10. However, I do find that it was unreasonable not to have provided a simple response or acknowledgement even under the circumstances outlined above in the overall timeframe. I consider that the Council has indeed behaved unreasonably. However, the PPG is clear that in order for an award of costs to be warranted the unreasonable behaviour must have resulted in unnecessary or wasted expense in the appeal process.
 11. In respect of the appeal the Council submitted a statement at appeal stage which set out, as required by the PPG, why they would have refused the application had they determined it. Despite the poor communication at the end of the application timescale, it is clear from the submitted evidence that the application would have been refused and thus, although appeal could have been lodged sooner, the appeal could not have been avoided in its entirety.
 12. The expense involved, therefore, in putting together the appeal would have been incurred even had the Council determined the application on time only around three weeks earlier. As such, I do not consider that unnecessary or wasted expense has been incurred by the applicant so as to warrant an award of costs.

Conclusion

13. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Williams

INSPECTOR