



Costs Decision

Site visit made on 6 August 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

Costs application in relation to Appeal Ref: APP/M5450/W/23/3335829 14A Station Parade, Kenton Lane, Harrow, HA3 8SB

- 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 G Grealis 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 construction of four storey building with basement level to provide retail unit at ground floor level; 1 x 1 bed at first floor and 1 x 2 bed at second and third floor; 4 car parking spaces, secure bin/cycle store and secure access.
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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 explains that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. The PPG states that costs cannot be claimed for the period during the determination of the planning application and that all parties are expected to behave reasonably throughout the planning process. However, it also states that 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 appeal to which this application for costs relates was made against the Council's failure to determine the planning application within the prescribed period.
5. In determining the appeal, I have had regard to the extensive planning history of the appeal site including previous refusals, appeal decisions, and pre-application meetings. The applicant states that throughout these processes as well as the relevant application process, they were continually willing to engage with the Council and any requests necessary to ensure the development would be acceptable to all those involved.
6. The applicant has provided copies of correspondence relating to the application which demonstrates the numerous attempts made to contact the Council and to seek to resolve matters relating to the main issue of the appeal. They also

provide evidence of attempts to agree appropriate extensions of time to enable the Council to determine the application. The correspondence provided indicates that during these delays consultees reviewed incorrect and out-of-date reports, resulting in inaccurate comments when provided. It is also clear from these documents that a significant amount of time elapsed between submission of the application, receipt of consultation comments and subsequent requests for additional information. This led to a requirement to obtain new surveys and reports as a direct result of the amount of time taken to consider the application.

7. These documents were submitted to the Council in November 2022. However, the Council did not provide comments until February 2023, and raised additional queries in relation to the submitted information. Further amended information was then provided to the Council in July 2023, including an updated Landscape Design. At this time, the applicant was still seeking clarification on the need to submit further surveys, but no response was forthcoming.
8. The applicant states that a new case officer was appointed and made contact in early September 2023, they indicated, albeit in an informal manner that the application was proceeding towards determination and with a positive recommendation. However, no further communication was received from the Council, and this led to the appeal against non-determination being submitted.
9. However, as outlined above, the PPG states that any expenses incurred at application stage, or any indirect expenses, cannot be recovered by an award of costs in the event of an appeal, which can only award costs relating unnecessary or wasted expense occurred in submitting an appeal.
10. The PPG advises that local planning authorities, in any appeal against a failure to determine an application within the statutory period, should explain the reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period.
11. From the evidence before me, there appears to be no proper explanation provided by the Council for these repeated delays and in that regard, I find that this constitutes unreasonable behaviour on the part of the Council.
12. Therefore, whilst I find that the Council has acted unreasonably in failing to provide an explanation for the delays in responding to the applicant, for the reasons set out in my appeal decision and based on the evidence available, it has not been demonstrated that the scheme would not result in adverse effects on biodiversity. Therefore, whilst I can appreciate the frustration that delays may have caused, determining the application would not necessarily have prevented an appeal being necessary. Furthermore, I have not been presented with any compelling evidence that unreasonable behaviour of the Council has led to unnecessary or wasted expense in respect of the appeal submission.
13. Therefore, 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 Lancaster

INSPECTOR