



## Costs Decision

Site visit made on 15 July 2024

**by S Brook BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 September 2024**

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### **Costs application in relation to Appeal Ref: APP/X5990/W/23/3330744 23-29 St John's Wood High Street, Westminster NW8 7NH**

- 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 Cadent Gas Ltd for a full award of costs against City of Westminster Council.
  - 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 'Installation of 2 no. new external risers to the front (north-easting facing) elevations of no. 23-25 and 27-29 St John's Wood High Street (Retrospective)'.
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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. Unreasonable behaviour may be procedural and/or substantive.
3. The appellant states that the Council acted unreasonably during the planning application process, by failing to determine the planning application 6 months after the determination deadline, failing to request an extension of time, and failing to respond to numerous emails attempting to proactively work alongside the local authority to achieve a positive determination of the planning application.
4. I have been provided with the email exchanges between the main parties. This correspondence indicates that while not responding to every email submitted by the appellant, the Council did provide responses to numerous emails and within relatively reasonable timescales, including correspondence which set out their concerns with the proposal as submitted in relation to harm to the character and appearance of the conservation area, as well as possible amendments or conditions that could potentially address those concerns. These email exchanges indicate that not only did the Council provide a reasonable level of communication with the appellant, but that they also sought to work with the appellant to find a mutually acceptable development. This information also includes reference to agreed extensions of time, one running to the 9 June 2023, and one running to the 28 July 2023.
5. The same correspondence indicates that the main parties did not reach any agreement on possible amendments to the scheme or the imposition of conditions that might have made the development acceptable to the Council. In

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an email dated 21 June 2023, the Council stated that without significant changes to the location of the pipework, that the application would likely be recommended for refusal. While the Council may not have announced on their website that there may be delays with the processing of planning applications, an email dated 20 July set out that workload pressures had caused delays in progressing the planning application further. There is no evidence before me to suggest that this was not the case, and, while frustrating for the applicant, it does not in my view constitute unreasonable behaviour. No communications from either party have been provided following the expiry of the 28 July extension of time, until the submission of the appeal.

6. At the appeal stage, the Council has set out why permission would not have been granted, had the application been determined within the relevant period. As such, while the Council failed to determine the application within the relevant period, it appears from the evidence before me, that the appeal process would not have been avoided in any event.

### **Conclusion**

7. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*S Brook*

INSPECTOR