



Costs Decision

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th November 2024

**Costs application in relation to Appeal Ref: APP/B5480/X/23/3336178
36-38 Victoria Road, ROMFORD RM1 2JH**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr M. Vankad for a full award of costs against the Council of the London Borough of Havering.
 - The appeal was against the refusal of a certificate of lawful use or development for "Implementation of approved planning permission ref:P1928.17 before the expiry of 3 years, hence the planning permission is now alive/extant by doing piled foundation works, as per e-mail evidence from piling contractor, pile logs and piled foundation invoices attached, showing works were completed on or before 1 December 2020."
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Decision

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

The submissions for Mr Vankad

2. The applicant is aggrieved that the Council refused his application for a lawful development certificate (LDC) despite evidence to the contrary. In addition, they failed to take into account evidence that was submitted on the day of the decision. This amounts to unreasonable behaviour that has led to the wasted expense of an appeal as the Council now accept there is sufficient evidence to show the development is lawful.

The response by the London Borough of Havering Council

3. At the time the decision was made the applicant's evidence was not precise and unambiguous and comprised a Piling Log which stated the project was completed on 1 December 2021 and with no start date. Submitted photographs were undated and the contractor's invoice was not evidence of implementation. As such, the Council were entitled to refuse the application as lawfulness was not proven. Unfortunately, the additional evidence requested by the Council was received after the decision was made, which was too late.

Reasons

4. 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.
5. I recognise the applicant's frustrations but the facts of the matter are that the relevant information that the Council needed to satisfy the balance of probabilities test was not received until after the decision was made. The applicant sent two emails on the day of the decision enclosing further evidence at 10.09am and 11.42am but unfortunately, they were received after the decision was made. Although an email is sent at a particular time, that is not

to say the recipient was sat at their desk and opened it immediately. They may have been in meetings or on site.

6. I note the additional information sent by the applicant before the day of the decision was made is not referred to in the officer's report. Each Council approaches the drafting of officer reports for LDC applications in different ways. Some systematically list all the evidence received and then comment on each item, others discuss the relevant information received, as in this case. Either approach is acceptable provided the report demonstrates reasoning and the weighing of the evidence to reach a conclusion.
7. The Council demonstrated good practice in accordance with the PPG by approaching the applicant after the appeal was made but their offer to re-determine a new application in lieu of the appeal was rejected.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

D Fleming

INSPECTOR