



Costs Decision

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 March 2025

Costs application in relation to Appeal Ref: APP/K5600/X/23/3322693 17 South End, London, W8 5BU

- 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 Mrs Zipporah Lisle-Mainwaring for a full or partial award of costs against Royal Borough of Kensington and Chelsea.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a lawful development certificate (LDC).
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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 applicant for costs sets out that for some 6 months prior to making her LDC application she had sought to engage with the Council on the issue (subject of the related appeal) through her solicitor, but who was met with “obstruction”. She states that the appeal could have been avoided if the Council had determined the application within the statutory 8 week period, it failing to do so because it had difficulty in understanding the relevant legal issues.
4. The full details of engagement and any obstruction is not before me. That notwithstanding, the costs regime relates to unnecessary or wasted expense that has been incurred during the *appeal process*. As such, any legal expense incurred during the 6 months engagement with the Council prior to the LDC application submission are not relevant to this costs application.
5. The appeal against non-determination of the LDC application was lodged one day after the 8 week statutory period. While I note the statutory entitlement to lodge the appeal, I also note the Council had requested by e-mail agreement to a limited extension of time (25 days) to determine the application, and explained the reasons for the delay.
6. Although it failed to meet the 8 week determination period it seems clear to me that they were making efforts to determine the application as soon as they could. In light of all these circumstances I consider that the failure to determine the application within 8 weeks did not amount to behaviour that can be said to be “unreasonable” in the ordinary sense of that term.

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

Thomas Shields

INSPECTOR