



Costs Decision

Site visit made on 25 April 2025

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2025

Costs application in relation to Appeal Ref: APP/H5960/W/24/3355475

Cross Fit Putney, 243, 245, 247, 249 and 251 Putney Bridge Road, London SW15 2PE

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr M Thorburn for a full award of costs against the Council of the London Borough of Wandsworth.
 - 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 variation of condition 5 pursuant to planning permission dated 19/10/2018 ref 2018/3527 (Change of Use from Class B1, B2 and B8 use to a Crossfit Gymnasium Class D2) so as to allow extension of business hours including non-fitness related events to 05:00 to 00:00 Monday to Saturday and 07:00 to 21:00 Sunday and Bank Holidays as amended by planning permission dated 15/09/2020 ref 2020/1279.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance 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. That the Council should have responded sooner in the application process with its concerns about the proposal and advised exactly what, if any, changes were required to resolve them is, to my mind, in little doubt. Although the application was validated by the Council on 1 May 2024, it was not until 13 November 2024 that an appeal on non-determination grounds was lodged. During this lengthy period, the application was subject to strong local opposition. However, it is not obvious from the representations made why a determination would be delayed as a result other than prompt a need to refer the application to the relevant Committee for a decision rather than a matter to be determined under delegated powers. I appreciate that the October meeting of the Committee had been cancelled. However, the target date for a decision was several months before then.
4. Consultation also took place with the Council's Environmental Services Team (EST). According to the Council, the EST requested further information in the form of a noise impact assessment (NIA) and a noise management plan, to which they say a response was not forthcoming. The applicant contests this point. Either way, the lack of such information did not prevent the EST from reaching a view on the risk of noise nuisance to others if the extended opening hours were to be accepted. Equally, I see no reason why the absence of a NIA would not necessarily prevent the Council from deciding the application in good time nor advising the applicant

beforehand that would be the case. The reason for refusal suggested by the Council at the appeal stage covers this very eventuality.

5. Against that background, the applicant's frustration with the need to recourse to appeal to secure a determination of the proposal is understandable whether or not an extension of time had been agreed in October 2024. If there is to be a delay, it is reasonable to expect a proper explanation of the reasons why, and to be given an estimate of when a decision on the application would be made and why extra time is required. As the Council did not do so, it has behaved unreasonably.
6. The Council's appeal evidence sets out the reason why it would have refused planning permission had the application been determined within the relevant time frame. For the reasons given in my decision, I agree with them. However, I am not persuaded that a delay of more than 6 months in deciding the application arose due to concerns that were either substantive or unforeseen. In the absence of knowing when the application would be decided, the applicant has had to resort to the appeal process to secure a determination and incur the costs of doing so.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Wandsworth shall pay to Mr M Thorburn, the costs of the appeal proceedings; such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
9. The applicant is now invited to submit to the Council of the London Borough of Wandsworth, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. If the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Gary Deane

INSPECTOR