



Costs Decision

Site visit made on 6 November 2018

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 04 January 2019

Costs application in relation to Appeal Ref: APP/X5210/W/18/3203533 3 Hargrave Place, London N7 ODP

- 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 Hargrave Developments Ltd for a full award of costs against the Council of the London Borough of Camden.
 - The appeal was against the refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that costs may only 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. There are two claims to assess. Firstly, whether procedurally the local planning authority acted unreasonably by not adhering to the deadline in the appeal start letter for submitting its appeal statement. Secondly, whether by stating that the appeal site was located within the Kentish Town Industrial Area (KTIA) the local planning authority made an inaccurate assertion about the proposal's impact.
3. In relation to the first claim, the local planning authority contacted the Planning Inspectorate on the submission deadline of Friday 12 October 2018 to request an extension due to staff shortages and the number of appeals received. As the appointed Inspector, given the circumstances, I agreed to an extension to the deadline by one week. The appeal statement was received the following working day, Monday 15 October, well in advance of the revised deadline and forwarded to the appellant the next day, Tuesday 16 October 2018. The delay involved therefore was minimal. In submitting the appeal statement within an agreed extended deadline the local planning authority therefore did not act unreasonably.
4. Turning to the second claim, at appeal stage the local planning authority inaccurately asserted that the appeal site was located within the KTIA. This was unreasonable behaviour.
5. As evidenced in the delegated report and reason for refusal the policies of the development plan seek to protect existing light industrial premises regardless

of where they are located within the Borough. As a result, the appellant fairly incurred the costs of lodging the appeal and preparing and submitting its appeal statement. However, in responding to the inaccurate assertion regarding the location of the appeal premises within the KTIA the appellant incurred the unnecessary and wasted expense at final comments stage of identifying this error and responding to it. In my judgement, this amounted to the cost incurred in preparing approximately half the length of the appellant's final comments.

6. For the reasons given above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, insofar as it relates to the appellant's final comments, has been demonstrated in relation to the second claim and that a partial award of costs is justified.

Costs Order

7. 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 Camden shall pay to Hargrave Developments Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding at final comments stage to the inaccurate assertion in the Council's appeal statement that the appeal site was located within the Kentish Town Industrial Area (KTIA); such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to the Council of the London Borough of Camden, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Ian Radcliffe

Inspector