



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: 06 December 2018

Costs application in relation to Appeal Ref: APP/X5210/W/18/3200554 128-130 Grafton Road, Kentish Town, London NW5 4BA

- 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 ETA BRIDGING LTD for a full award of costs against the Council of the London Borough of Camden.
 - 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 the demolition of existing two-storey industrial building at 128 130 Grafton Road and erection of a 6-storey (including basement) residential building to comprise 6 x 2-bed and 3 x 3-bed apartments.
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Decision

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

Reasons

1. 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. However, as PPG notes, costs awards do not extend to compensation for indirect losses, such as those which may result from an alleged delay in obtaining planning permission. There is one claim to assess in this case: whether, by not determining the application within the prescribed time limits, the Council acted unreasonably.
2. The application was validated by the Council on 10 January 2018 but was not determined by the time limit of 7 March 2018. The appellant states that despite contacting the Council on several occasions an exact date for determination was not given, nor was an extension of time offered. As a result, the appeal was lodged on 16 April 2018. The Council was in contact regarding the application but did not request an extension of time until 20 April 2018, over six weeks after the time limit for determining the application has passed. Given the extent of the delay, the Council's behaviour was unreasonable. However, for an award of costs to succeed, such behaviour must also have result in unnecessary or wasted costs on the part of the claimant.
3. Whilst the frustrations of the appellant in relation to the delay are understandable, I find that the behaviour of the Council has not resulted in any wasted or unnecessary expense, since, on the evidence of the Council's objections to the proposal, it is clear that revisions to the scheme and the submission of planning obligations were necessary. As a result, had the Council determined the planning application within the statutory time period

this would have led to an appeal in any event. Moreover, given the outcome of the appeal, the Council did justify its position in relation to the proposal. The Council's actions therefore did not prevent or delay development which should have been permitted. On that basis, whilst the Council's behaviour was unreasonable, in the event it did not involve the applicant in unnecessary or wasted expense as described in PPG. Accordingly, an award of costs is not justified.

Ian Radcliffe

Inspector