



Costs Decision

Site visit made on 7 June 2021

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd December 2022

Costs application in relation to Appeal Ref: APP/X5210/W/20/3259869 St. Mary the Virgin Church, Elsworthy Road, London NW3 3DJ

- 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 Mr Leonard Hawkins of MRDA Architects and Conservation Consultants for a full award of costs against the Council of the London Borough of Camden.
 - The appeal was against the refusal of planning permission for a development described as: Reversible installation of photovoltaic technology mounted on the southern slope of the nave roof of St Mary the Virgin, Primrose Hill.
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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 (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 appellant's application for costs is predicated on the procedural grounds that no explanation was offered as to why the Council could not make a decision within the statutory time period and on the substantive ground that the Council prevented or delayed development which should clearly be permitted.
4. Whilst I have noted the comments of both parties in respect of pre-application advice, the costs regime is primarily concerned with behaviour during the appeal process. Matters relating to the pre-application advice process sit some way outside the costs regime and so I have not considered this point.
5. The PPG sets out that where it becomes apparent that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. It goes on to state that if an appeal is made against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit.
6. The onset of the coronavirus pandemic, the imposition of the first national lockdown, and the requirements to work from home inevitably would have caused some disruption to the Council's ability to process applications. I have noted that the Council advised the appellant that amendments would be

required to the proposal in mid-April 2020 which were subsequently received at the beginning of May. Within this context, I do not find the Council's actions up to this point unreasonable.

7. The actions of the Council between the submission of the amended scheme at the beginning of May 2020 and the lodging of the appeal in late September 2020 are less well explained. Whilst the original case officer starting maternity leave is clear, no explanation is offered regarding why the allocation of the application to a new case officer took several weeks. Nor is there any information in respect of why, subsequently, no further progress was made with the application for a further three months until the submission of the appeal, despite the Council accepting that it was put on notice that an appeal against non-determination was to be submitted some weeks before the actual submission of the appeal.
8. From the submissions that I have, effective communication between the parties doesn't appear to have occurred for a number of months despite the Council recognising in its appeal statement that it would have granted planning permission for the proposal in its revised form had it had the opportunity to do so.
9. Following on from this, as I have allowed the appeal for the scheme in its amended iteration of 58 photovoltaic panels, it is also evident that the unexplained inaction of the Council has delayed development that ought to have been granted planning permission. Taken together, I find that this amounts to unreasonable behaviour.
10. Had the Council either determined the application or provided the appellant with a definite timescale for the determination of the application, the need to pursue an appeal would have been avoided. The appellant has consequently incurred costs in preparing and submitting the appeal.
11. 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

12. 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 Mr Leonard Hawkins of MRDA Architects and Conservation Consultants, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to 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.

John Dowsett

INSPECTOR