
Costs Decisions

Site visit made on 2 October 2018

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2018

Costs application in relation to Appeal A Ref: APP/R5510/W/18/3204262 44 Waterloo Road, Uxbridge, UB8 2QX

- 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 Uxbridge Property Limited for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against a grant of planning permission subject to conditions.
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Costs application in relation to Appeal B Ref: APP/R5510/W/18/3209252 44 Waterloo Road, Uxbridge, UB8 2QX

- 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 Uxbridge Property Limited for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against a failure to give notice within the prescribed period of a decision on an application for planning permission for the development of land 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 in respect of Appeal A and Appeal B are allowed in the terms set out below.

Procedural Matter

2. Whilst the costs relate to different applications relate, from the evidence provided it is clear that there is significant overlap between the two. As I dealt with both appeals together, to avoid duplication I have dealt with the costs applications together.

Reasons

3. 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. Paragraph 49 of the PPG sets out examples of behaviour that might give rise to a substantive award of costs against a Local Planning Authority.
4. The applications for costs are brought on the grounds that the Council made vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by any objective analysis, failed to determine similar cases in a consistent manner, imposed a condition which does not meet the tests in the Framework and delayed or prevented development which should be permitted.

5. In determining the original application for prior approval the Council considered the PTAL score for the area and took account of car ownership levels in the vicinity of the site. However, it gave only limited weight to the comprehensive assessment of parking stress that had been provided with the application.
6. The Council, in correspondence with the applicant, referenced nearby major developments where it required a 1:1 parking ratio and locations where car free development has been approved in the Borough. However, it did not provide objective analysis of the information contained in the Transport Statements or any substantive evidence to demonstrate how the modest increase in parking associated with the development would add to pressure for on-street parking, such that it would result in highway safety concerns or severe transport impacts. I therefore consider that the Council's view that the development would lead to concentrated parking stress in the area is a generalised assertion.
7. I acknowledge that each planning application should be considered on its own merits and that parking issues can vary significantly across an area. However, little weight appears to have been given to other recent appeal decisions where the Council's approach to applying its parking policies had not been supported by other Inspectors. I consider that its failure in this particular case to substantiate adequately its reason for requiring on-site parking in terms of the highways impacts of the proposal, the Council did not demonstrate that it had considered the application in a manner consistent with previous appeal decisions.
8. Notwithstanding on-going correspondence between the parties, it appears to have taken five months for the Council to determine the application for prior approval. The permitted development allowance at the time the application was considered required the use as dwellinghouses to be begun before 15 April 2018. The applicant agreed to an extension of time as a refusal would have left insufficient time to implement the scheme prior to this deadline. It was also for this reason that the applicant agreed to the condition. Had the Council considered the Transport Statements, with regard to the Framework and their own development plan policies, which set out maximum parking standards, I conclude that the development should have been permitted without the condition.
9. I therefore find that the Council has acted unreasonably in failing to substantiate its requirement for on-site car parking. Furthermore, in doing so the Council did not demonstrate that it had considered similar cases in a consistent manner or had due regard to the decisions of other Inspectors. Consequently, it delayed the implementation of a development that should have been permitted by imposing an unnecessary condition. This amounts to unreasonable behaviour having regard to paragraph 49 of the PPG. This will have caused the applicant unnecessary expense in making the appeal.
10. However, in presenting the cases the applicant largely relied on material that had already been prepared and submitted with the application. There was no expense in respect of the preparation of additional Transport Statements. Therefore, the only costs which were unnecessary were those associated with submitting the appeals.

Costs Order

11. 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 Hillingdon shall pay to Uxbridge Property Limited, 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.
12. The applicant is now invited to submit to the Council of the London Borough of Hillingdon to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Felicity Thompson

INSPECTOR