The Planning Inspectorate

Costs Decision

Site visit made on 21 September 2016

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 October 2016

Costs application in relation to Appeal Ref: APP/X5210/W/16/3152834
Land at 1-8 Harmood Grove, London NW1 8DH

- 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 Citadel Investments 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 the modification of existing fencing (part retrospective).

Decision

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

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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in such unnecessary or wasted expense. Parties in planning appeals and other planning proceedings normally meet their own expenses.

3. Paragraph 049 of the Appeals section of the Planning Practice Guidance advises that local planning authorities are at risk of an award of costs where they behave unreasonably, for example by:

    - refusing to provide reasonably requested information when a more helpful approach would probably have resulted in either the appeal being avoided altogether or the issues to be considered being narrowed; or

    - preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

4. The claimant submits that the local planning authority failed to act in a positive and proactive way, as advised by National Planning Policy Framework paragraph 187, by consistently failing to provide any constructive feedback on the main issues or concerns and how they could be rectified. The claimant feels that the planning case officer effectively arrived at his decision without visiting the site.

5. The Council responds that the applicant was advised to lower the height of the proposed fence and that the officer's site visit took place well over a month before the decision was taken, during which time the application was still under consideration.

6. It appears to me that the Council did provide appropriate advice and allowed sufficient time to review the case following the site visit. Evidence submitted with the appeal indicates that there was at least one conversation with the officer about the case during that time. The claimant had an opportunity to amend the scheme if it wanted to compromise. In the appeal decision I have found that the height and design of the proposal would be unacceptably harmful to the character and appearance of the area and the setting of the conservation area. I find that the Council has acted reasonably in the circumstances of this case.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Les Greenwood

INSPECTOR