
Costs Decision

Site visit made on 2 November 2016

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 24th November 2016

Costs application in relation to Appeal Ref: APP/V5570/W/16/3155770 27 Fonthill Road, Islington, London N4 3HY

- 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 Islington Holdings LLP for a full award of costs against the Council of the London Borough of Islington.
 - The appeal was against the refusal of planning permission for what was described as "Convert an existing A5 Hot Food Takeaway shop into a C3 residential dwelling. Demolish the existing lean to structures, external stairs and duct to the rear of the shop. Erect a new single storey residential extension of similar size in its place."
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably, and has thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Paragraph 49 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.
 3. Examples of this, set out in paragraph 49 of the PPG, and of relevance to the points raised by the appellant in the application for an award of costs, include:
 - failure to produce evidence to substantiate each reason for refusal on appeal; and
 - requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy in the National Planning Policy Framework on planning conditions and obligations.
 4. The reason for refusal set out in the Council's decision notice is complete, precise and relevant to the proposed development, and clearly sets out which development plan policy and supplementary planning document the appeal proposal would conflict with. This reason for refusal was substantiated by the Council in the delegated report and statement of case, with reference to the evidence base which underpins the relevant development plan policy and supplementary planning document.
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5. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
6. It is clear from the evidence before me that, in determining the application, the Council had due regard to relevant material considerations including the Secretary of State's Written Ministerial Statement of 28 November 2014 and subsequent alterations to the PPG on planning obligations for affordable housing and social infrastructure contributions, and weighed this against development plan policy in the planning balance.
7. The Council's delegated report and statement of case did not make reference to recent Appeal Decisions quoted by the appellant. However, I have no evidence that this has caused the appellant to incur unnecessary or wasted expense in the appeal process.

Conclusion

8. In conclusion, I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

C L Humphrey

INSPECTOR