
Costs Decision

Site visit made on 9 November 2016

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 30th November 2016

Costs application in relation to Appeal Ref: APP/R5510/W/16/3156783 11 Wilmar Close, Uxbridge, Hillingdon, UB8 1AS

- 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 Iassen Kirov for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against the refusal of the Council to grant planning permission for a two storey rear extension and change of use to form two studio flats.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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 application for costs has been made on the basis that the Council has not determined similar cases in a consistent manner. In particular, the appellant states that the sole reason for refusal, relating to the loss of a family dwelling unit, was not applied to similar proposals on the same site that were refused in 2007, 2008, and 2013. Each of these previous proposals similarly involved the conversion of the property into 2 studio or single bedroom apartments.
 4. The Council's reason for refusal relied upon Policy H7 of the London Borough of Hillingdon Unitary Development Plan (adopted in 1998), and the Hillingdon Design and Accessibility Statement Residential Layouts Supplementary Planning Document (SPD) (adopted in 2006). Both this policy and SPD were adopted prior to the previous decisions relating to this site. It is therefore unclear why the Council failed to attach a similar reason for refusal to the previous decisions. The Council have provided no explanation for this inconsistency in their costs rebuttal statement.
 5. Furthermore, neither Policy H7 nor the SPD refer to the need to retain existing family dwellings in the Borough. These policies therefore provide no support for the reason for refusal. Moreover, no other supporting evidence was provided by the Council in this regard.
 6. PPG lists examples of the behaviour that may give rise to a substantive award of costs against a local planning authority. These include: "not determining similar cases in a consistent manner", and "failure to produce evidence to
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substantiate each reason for refusal on appeal". In this case, the Council have clearly failed to determine similar cases in a consistent manner, as set out above. In addition, the reason for refusal has simply not been substantiated. I therefore conclude that the Council acted unreasonably in applying the reason for refusal, and the appeal could have been avoided.

Conclusion

7. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 Mr Iassen Kirov, 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.
9. 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.

Thomas Hatfield

INSPECTOR