

Costs Decision

Site visit made on 16 November 2016

by Penelope Metcalfe BA(Hons) MSc DipUP DipDBE MRTPI IHBC

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

Decision date: 2 December 2016

**Costs application in relation to Appeal Ref: APP/A5270/D/16/3158260
74 Twyford Avenue, Acton, Ealing, W3 9QB**

- 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 Martin Gormley for a partial award of costs against the Council of the London Borough of Ealing
 - The appeal was made against the refusal of planning permission for a vehicle crossover.
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Decision

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

Reasons

Submission of Mr Martin Gormley

2. The application is made for a partial award of costs in respect of the matter of on-street parking pressure. The Council has behaved unreasonably by claiming that the appeal proposal is in an area of high on-street parking pressure without any supporting evidence. The appellant has incurred unnecessary expense in employing consultants to deal with this claim over and above what would have been necessary to address highway safety alone.

Submission of the Council of the London Borough of Ealing

3. The Council relied on input from Transport officers. Cars can park only in marked bays. There is space at present for three cars outside the vicinity of the house. The proposal would at best allow one car to be parked on the street with a consequent reduction of two spaces. Forecourts with access onto classified roads are required to have room to enable vehicles to access and egress in forward gear. The location of the boundary wall would allow two vehicles to park off street, by traversing an untreated footway.

Conclusions

4. 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.

5. The appellant has not contested that part of the reason for refusal which refers to highway safety in respect of vehicles entering or leaving the site in a forward gear. I have not therefore considered that matter in this decision.
6. I have found the development acceptable and allowed the appeal. Reasons for refusal should be fully substantiated and not based on vague, generalised or inaccurate assertions and should be supported by objective analysis.
7. I consider that the Council's case is not supported by either of the policies cited. London Plan policy 6.13 is a strategic policy which covers all transport matters across the whole city. It refers in general terms to parking standards which should be set out in detail by individual Boroughs in the context of the maximum standards in the Plan and access to public transport. The site is in a Controlled Parking Zone where the time restraints on parking seem to be designed to deter commuters. The Council has not put forward any evidence that there is excessive pressure for other on-street parking in the area.
8. Policy 6.13 of the Council's Development Management Development Plan Document as put forward appears to relate only to the standard for the provision of disabled parking spaces. The Council has not put forward any evidence to show how this policy is relevant in this case.
9. The Council has asserted that the proposal would result in the loss of two on-street parking spaces because of the crossover and that there is a possibility that two vehicles could cross the footway to park in the front garden. It has not supported its case with evidence based on a relevant policy which sets out parking standards or on any objective analysis of the local circumstances and so has failed to demonstrate what harm would be caused by this occurrence.
10. 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 partial award of costs is justified.

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 Ealing shall pay to Mr Martin Gormley, the costs of the appeal proceedings limited to those costs incurred in preparing his case in respect of the Council's unsupported claim regarding on-street parking pressure; such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
12. The applicant is now invited to submit to the Council of the London Borough of Ealing to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

PAG Metcalfe

INSPECTOR