

Costs Decision

Site visit made on 9 January 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 23rd January 2017

Costs application in relation to Appeal Ref: APP/V5570/W/16/3161073 10 Chapel Market, Islington, London N1 9EZ

- 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 Chuni Kahan, Barron Properties 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 erection of first floor rear extension and mansard roof extension to provide 2x1 bed self-contained flats.
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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;
 - 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; 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; and
 4. The reasons for refusal set out in the Council's decision notice are complete, precise and relevant to the proposed development and clearly set out which development plan policy and supplementary planning document the appeal proposal would conflict with. The reasons for refusal were 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 and weighed this against development plan policy in the planning balance.

Conclusion

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

Caroline Mulloy

Inspector