
Costs Decision

Site visit made on 24 January 2017

by S J Buckingham BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 23 February 2017

**Costs application in relation to Appeal Ref: APP/E5900/W/16/3160619
Flat 22 Pakenham House, Wellington Row, London E2 7BA**

- 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 Mrs H Bibi for a full award of costs against the Council of the London Borough of Tower Hamlets.
 - The appeal was against the refusal of planning permission for a single storey rear extension.
-

Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. The application has been made in relation to the substance of the case, and relies on the grounds that the Council prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; that the Council made vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by any objective analysis; and there was inconsistent decision making with no justification provided to the applicant for this inconsistency. I will deal with the third of these grounds last, as it relies on my conclusion on the first two.
 4. Consideration of the proposal in the officer's report set out clearly why the extension would be considered incongruous in relation to the appearance of Pakenham House and therefore in views out of the Jesus Hospital Estate Conservation Area. The report is also clear that the appeal site lies outside the conservation area.
 5. As the site is outside the conservation area, and the effect of the proposal is considered to relate to the appearance of the conservation area rather than character and appearance, consideration of this issue would not be reliant on detailed consideration of the character of the conservation area itself, but rather on the visual qualities of what was proposed in its own immediate context. I consider therefore that the report deals proportionately and reasonably with that issue.
-

6. The report concludes against policy relating to design issues and to the effect of proposals on local character, which are relevant as the reason for refusal relates to the effect on appearance.
7. As I have identified in my finding on the appeal, the submitted plans are not entirely clear in relation to the garden area shown in relation to the proposed extension as relating to flat 22. There was therefore scope for uncertainty to arise, and I do not consider that the Council acted unreasonably in questioning the effect of the proposal on the amenity space available to the occupiers of nearby flats.
8. The reasons given by the Council for finding harm to the amenity of occupiers of the flat above in terms of security are sufficiently clearly set out to be understood. Although I have differed in my conclusion on this harm, I have done so on the basis of the low risk of it occurring rather than finding that it could not occur. I do not therefore consider that the Council has acted unreasonably in identifying this potential harm.
9. Overall therefore, in relation to the applicant's second contention, I conclude that the Council's consideration of the effects of the proposal were not made on the basis of vague, generalised or inaccurate assertions or unsupported by any objective analysis. The Council did not therefore act unreasonably in this respect.
10. Turning now to the assertion of inconsistent decision making. I note the short reference on the submitted drawing to the previously approved extension at Brabner House, but have seen no further reference to it in the application which might have made the Council aware that the applicant was partially relying on this precedent. It is not therefore surprising that the Council did not consider it in detail in the officer's report. As I have discussed in my Decision relating to the appeal, the circumstances of the two cases are, in any event, sufficiently different for it not to provide a precedent for this proposal. I do not therefore consider that the Council have acted unreasonably in this regard.
11. Given my conclusions on these two points, and given that the Council did clearly and reasonably identify harm arising from the appeal proposal I conclude also, therefore, that the Council did not prevent or delay development which clearly should be permitted. As a result it follows that I cannot agree that the Council has acted unreasonably in this respect either.
12. Although I did not find harm would arise in relation to the Council's second reason for refusal, I have nonetheless concluded that the appeal should be dismissed. Therefore the applicant was not put to any significant unnecessary or wasted expense in appealing the Council's decision.
13. While I sympathise with the applicant's disappointment at failing to gain planning permission, this cannot cause me to alter my conclusions.

Conclusion

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

S J Buckingham INSPECTOR