
Costs Decision

Site visit made on 6 February 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 24th February 2017

Costs application in relation to Appeal Ref: APP/V5570/W/16/3162003 55-65 Randell's Road, Islington, London N1 0DH

- 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 NewMac KGX Developments Ltd 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 the demolition of a single storey workshop and construction of a 4-storey plus basement building containing B1 office use at ground floor and basement levels and 5 x 2-bed flats and 1 x 1-bed flat above.
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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.
 3. The applicants' case is substantive in nature. For substantive matters, the PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Any unnecessary costs identified must relate to the appeal process. Of relevance to this application is the allegation that the Council has failed to recognise a material planning consideration thereby preventing development which should clearly have been permitted having regard to national policy in particular. Moreover, it is alleged that the applicant has been forced to enter into a prior legal agreement that does not accord with national policy.
 4. The reasons set out in the decision notice are complete, precise and relevant to the proposed development. The officer report in particular set out the relevant development plan policy and properly explained the basis of national policy. The Council referred to substantial evidence base that underpinned its attitude to the requirement for contributions to be made towards affordable housing. Whilst the case presented by the Council did not go into any great detail relating to other contributions that it felt to be necessary regarding carbon off-setting measures, it was following the requirements of the Environmental Design Planning Guidance Supplementary Planning Document (SPD) that the applicant was fully aware of from both a previous planning permission on the
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site and the officer report on the later proposals the subject of the appeal. I am content that the SPD formed a relevant and up-to-date planning document, which was an important material planning consideration. As I explained in the appeal decision, planning law requires that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise.

5. I am satisfied from the evidence before me that, in determining the application, the Council explained its position in relation to the Written Ministerial Statement of 28 November 2014 and subsequent alterations to the PPG in terms of matters relating to planning obligations for affordable housing and environmental design. Whilst I did not support the Council's case in respect of requiring contributions towards carbon off-setting measures, the fact that the Council's stance was supported by a PPG was sufficient for the issue to be debated at appeal.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated.

Gareth W Thomas

INSPECTOR