
Costs Decision

Site visit made on 27 February 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 31 March 2017

Costs application in relation to Appeal Ref: APP/L5240/W/16/3164905 34 Westow Hill, Upper Norwood, London SE19 1RX

- 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 Supreme Properties Care of Golfrate for a full award of costs against Council of the London Borough of Croydon.
 - The appeal was against the refusal of planning permission for extension at first and second floors to form two studio flats, with stair enclosure, canopies and screens at rear together with associated alterations and demolition.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) 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 the costs to incur unnecessary or wasted expense in the appeal process.
 3. The basis of the submission put forward by the applicant is that the Council failed to take into account the clear and positive pre application advice it had given to the applicant and that the length of time taken to provide the pre application feedback and determine the subsequent planning application means it acted unreasonably.
 4. Pre application advice is given on a without prejudice basis and is not binding on the eventual outcome of a formal determination of an application. This was clearly stated in the letter from the Council dated 7 April 2016. Furthermore while the letter states that the extension of the property could be supported, due to other reasons the overall feedback was that the scheme was not acceptable. The scheme was amended and is now the subject of the current appeal. I have seen no pre application advice which relates specifically to the scheme the subject of appeal.
 5. In assessing the merits of the application, the Council's Delegated Report gave consideration to the effect of the proposal on the character and appearance of the Upper Norwood Triangle Conservation area with particular reference to the Conservation Area Appraisal and Management Plan together with comments from relevant consultees. Furthermore, an assessment was made of the proposal on the living conditions of neighbouring residents. The Council
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justified their position and provided reasons for refusal based on the development plan and other considerations.

6. Whilst I appreciate that the outcome of the planning application will have been a disappointment to the appellant, the Local Planning Authority was not unreasonable in coming to its decision. Indeed, following consideration of the application on its merits alone, I have concurred with the Council and found that it had reasonable concerns about the impacts of the proposed development which justified its decision.
7. There is no statutory timescale for the consideration of a request for pre application advice. I am advised that the determination of the planning application took 18 weeks, which is considerably longer than the statutory time limit of 8 weeks. The Council explain that they found it necessary to re-advertise and consult on the proposals following an inaccurate description of the scheme on the initial consultation.
8. While the applicant may question this approach and the extended length of time taken to make the decision must have caused them some concern I find nothing in the evidence before me to suggest that a decision was not reached on the basis of the merits of the proposal, as submitted by the applicant. I also find no substantive evidence that the appellant incurred any additional expense during the appeal process as a result of any delay in the Council issuing its decision.
9. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, for the reasons given above, I refuse the application for an award of costs.

Zoe Raygen

INSPECTOR