
Costs Decision

Site visit made on 28 March 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 4 May 2017

Costs application in relation to Appeal Ref: APP/A5840/W/16/3165687 Vanguard Court, Peckham Road, London, Southwark SE5 8QT

- 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 Vanguard Metropolitan Ltd for a full award of costs against the Council of the London Borough of Southwark.
 - The appeal was against the refusal of planning permission for the demolition of a part of the existing industrial estate and redevelopment of this land to form five workshops (Use Class B1), six, two bedroom flats and one, one bedroom flat with associated car and cycle parking and landscaping works.
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Decision

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

Reasons

2. Planning Practice Guidance advises¹ that, irrespective of the outcome of the appeal, 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.
3. I appreciate that the apparent change in position of the Council and its subsequent decision will have been a cause of frustration and disappointment to the appellant. However, the Council was not unreasonable in coming to its decision. Indeed, it will be seen from my decision that I agree with the Council that there are sufficient reasons to justify withholding planning permission. It follows that I am satisfied that the Council has shown that it was able to substantiate two of its reasons for refusal and as such has not 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.
4. I have also agreed with the Council that a number of the existing uses at Vanguard Court are either in Class B2 use, or are likely to fall within Use Class B2. Consequently, the Council raised a number of legitimate concerns regarding the appellant's Noise Impact Assessment, which ultimately underpin its conclusions and limit the weight I have been able to give to the same.
5. I do accept that the Council did not provide a written response to the appellant's emails of June 2016. However, it is evident that a conversation between the Council and the appellant took place on 17 June, when it was

¹ Paragraph: 030 Reference ID: 16-030-20140306

explained that the Council's view was still to refuse permission. The Council was not therefore unreasonable to reiterate previous responses if its position had not changed as a result of additional information submitted.

6. Whilst I am satisfied that the third reason for refusal has now been addressed, the Council was not unreasonable in including the same within its decision given that the scheme as submitted did not meet the internal space standards of Policy 3.5 of the London Plan. I appreciate that raising the matter earlier may have allowed this issue to have been resolved, nevertheless, the first two reasons for refusal would have remained and the appeal, and the work to amend the plans, would not have been avoided.
7. Moreover, reporting the application to the Council's Committee in accordance with its scheme of delegation, does not amount to unreasonable behaviour.

Conclusion

8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not justified.

Richard S Jones

Inspector