
Costs Decision

Site visit made on 2 May 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 12th May 2017

Costs application in relation to Appeal Ref: APP/V5570/W/17/3168470 226 Hornsey Road, Islington, London N7 7LL

- 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 Alex Deutsch (Hornsey 266 Ltd c/o Concrete Investments 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 proposed development described as 'Ground floor redesign to layout, to facilitate the improvement of the living standards to the existing two flats at ground floor level, at 226 Hornsey Road N7 7LL; as considered lawful under the approved COL ref: - P2016/2061/COL.'
-

Decision

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

Reasons

2. 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 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. Examples of this include 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; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and not determining similar cases in a consistent manner.
 3. The reasons for refusal of the appeal proposal set out in the Council's decision notice are complete, precise and relevant to the proposed development, and clearly set out which development plan policies the proposal would conflict with. These reasons for refusal are substantiated by the Council in the Delegated Report and Statement of Case. As set out in my Decision I have found that the proposed development would have a harmful effect upon the character and appearance of the appeal property and on the living conditions of the occupiers of the neighbouring property at 228 Hornsey Road with particular regard to outlook and levels of enclosure. I therefore consider that the Council acted reasonably in refusing planning permission for these reasons.
-

4. Subsequent to the determination of the application to which the appeal relates, the Council granted planning permission (Ref P2017/0168/FUL) for a flat within an extension to the rear of the appeal property. However, whilst this other scheme would reduce the extent of outdoor amenity space available to future occupants, it would not amount to 100% plot coverage and would provide external amenity space for both ground floor flats. Moreover, as noted in my Appeal Decision, the approved scheme relates to a single storey extension which would not be as substantial in height and bulk as the appeal proposal. As such, there are clear differences between the appeal proposal and the approved scheme. Based upon the evidence before me, the Council assessed both schemes on their own merits, having regard to the development plan, national policy and any other material considerations.

Conclusion

5. In conclusion, for the reasons set out above, I find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

CL Humphrey

INSPECTOR