
Costs Decision

Site visit made on 25 April 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 23 May 2017

Costs application in relation to Appeal Ref: APP/C5690/W/17/3168771 Land to the rear of 3-7 Cheseman Street, London SE26 4RA

- 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 E Farrier for a full award of costs against the Council of the London Borough of Lewisham.
 - The appeal was against the refusal of planning permission for the demolition of existing garages and construction of 3 x 3 bedroom residential new dwellings and any other ancillary works to be undertaken in order to crystallise the proposal.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that 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. The PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal.
 3. The basis of the appellant's application for costs is on the grounds that the Council acted unreasonably during the consideration of the planning application by a perceived failure to co-operate with the appellant to work towards a favourable decision. This resulted in a perceived subjective view of the proposal resulting in a consequential decision to refuse planning permission with additional professional fees being incurred in the submission of the appeal.
 4. I consider that the reasons for the refusal of the planning application were relevant to the application and clearly state the relevant policies of the Lewisham Development Management Local Plan 2014(DMLP), the Lewisham Core Strategy Development Plan Document 2011 (Core Strategy) and the London Plan (2016) that the proposed development would be in conflict with.
 5. It is an established planning principle that each application has to be considered on its own individual merits. In this case the Council were concerned that the proposed development would have an unacceptable detrimental effect on the living conditions of the future occupiers of the dwellings as a consequence of a poor outlook. In addition, the proposal would further increase the demand for on-street parking which would have an unacceptable effect on highway safety. My decision, which accompanies this
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cost decision, agreed with the Council's assessment and dismissed the appeal on similar grounds.

6. The Council's policies do provide an obligation to consider the impact of development on the living conditions of the future occupants of the proposed dwellings and on local parking conditions. The Council did not act unreasonably in considering those impacts or in finding that harm would be caused.
7. The extent to which the proposed development impacts on the living conditions of future occupants and on-street car parking demand is to some extent a matter of subjective judgement guided by policies contained within the development plan. The Council properly considered the proposed development against the relevant policies contained within the Core Strategy, the DMLP and the London Plan. The fact that other residential development schemes may have been permitted nearby does not suggest that the Council should not consider new development against the requirements of those policies.
8. The fact remains that the proposed development, as a consequence of its submerged nature and proximity to the site boundary, would result in a poor outlook from the lower ground floor of the dwellings and would give rise to additional on-street car parking demand on a road which is narrow and already suffers from a high degree of competition for car parking spaces with evidence of resultant indiscriminate parking.
9. The Council is obliged to consider the planning application as submitted. It is often the case that minor amendments may be made to a proposal during the course of such considerations. However, I have no evidence to indicate how further discussions in this case could have resulted in a more favourable outcome on the application, given the site and local highway circumstances, to the extent that the appeal could have been avoided. Moreover, given my findings that harm would be caused, I do not have any evidence to conclusively suggest that any lack of negotiation was a contributory factor in the Council's decision to refuse the application.
10. Taking all of these matters into account, I find that the reasons for the refusal of the planning application were complete, precise, specific and relevant to the application. I have found that the Council had reasonable concerns about the effect on the living conditions of the future occupants of the proposed dwellings and on on-street parking conditions which led to the decision to refuse the application. Accordingly, I do not find that the Council failed to properly consider the merits of the scheme and therefore the appeal could not have been avoided.
11. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and having regard to all other matters raised, an award of costs is not justified.

Stephen Normington

INSPECTOR