
Costs Decision

Site visit made on 31 May 2017

by G Rollings BA(Hons) MA(UD) MRTPI

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

Decision date: 20th June 2017

Costs application in relation to Appeal Ref: APP/Q5300/W/17/3169561 54 Madeira Road, Southgate, N13 5SS

- 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 David Woods for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for the erection of a two-storey building comprising 2x2 bed self-contained flats.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. In asserting that the Council has not applied its policies consistently, the applicant provided several examples of previous Council decisions, in which new residential development had been permitted with no elements of family accommodation. I acknowledge that there are similarities between the appeal scheme and the supplied examples in this regard. However, the appeal site has a unique planning history incorporating several previous permissions, for which a bespoke assessment was required.
 4. Although I have not been provided with the full details of the Council's methods of assessment for the example cases, I cannot see any evidence that it has acted improperly in applying its policies. That is also the case with regard to the appeal scheme. Accordingly, I do not find that the Council has acted unreasonably by failing to determine similar cases in a consistent manner.
 5. The appeal scheme did not provide an external space layout in accordance with the adopted development plan. I noted in the appeal decision that it would be possible to provide an appropriate layout of outdoor space, but that this would be subject to the Council's consideration and acceptance of a redesign submitted pursuant to a planning condition. This was not the approach of the Council in applying the relevant policy which, in itself, has minimal flexibility.
 6. Although the Council could have taken the same approach in applying a condition, it did not. Yet although a condition could have made that aspect of the scheme acceptable, I noted the exceptional nature of such a condition.
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Nonetheless, the PPG states that unreasonable behaviour occurs when a Council refuses permission for a scheme that could be dealt with by conditions, but only where "it is concluded that suitable conditions would enable the proposed development to go ahead"¹. Given that there was an additional reason for refusal in this instance – the harm from which could not be mitigated with the use of planning conditions – I find that the Council has not behaved unreasonably in this regard.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For the reasons given above, I refuse the application for an award of costs.

G Rollings

INSPECTOR

¹ PPG Reference ID: 16-049-20140306; Revision date: 06 03 2014.