
Costs Decision

Site visit made on 16 May 2017

by Rachel Walmsley BSc MSc MRTPI

Decision date: 11 July 2017

Costs application in relation to Appeal Ref: APP/G5750/W/16/3162665 72A Tennyson Road, Stratford, London E15 4DR

- 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 James Leane for a partial award of costs against the Council of the London Borough of Newham.
 - The appeal was against the refusal of planning permission for the erection of a new 2 bed dwelling house on vacant land adjacent to 70 Tennyson Road with loft conversion, rear dormer and 1 velux window to front elevation, incorporating the renewal of external staircase to adjoining flats.
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Decision

1. The application for a partial award of costs is refused.

Procedural matter

2. It is not clear from the costs application before me if a full or partial award has been applied for. However, on consideration of the application and the concerns raised I have considered the application for costs as one for a partial award of costs.

Reasons

3. I have considered this application for costs in light of the Planning Practice Guidance (PPG). 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 costs to incur unnecessary or wasted expense in the appeal process.
4. The Council approved earlier planning applications for a residential property on the appeal site and to discharge conditions related to this permission. Planning permission was granted for a residential property on the site in 2012. In the intervening years planning policy has changed; including the Council's development plan policies and those relating to internal space standards. This is a material change in planning policy which in turn, could reasonably lead the Council to decide subsequent applications for development on the site differently. In addition, whilst an earlier permission for an identical development can carry favourable weight, it remains necessary for the Council to base its decision on the merits of the case concerned and take account of all relevant material considerations. The Council considered the proposal against

the relevant development plan policies and decided the planning application accordingly.

5. Under Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, local planning authorities are required to *state clearly and precisely their full reasons for the refusal specifying all policies and proposals in the development plan which are relevant to the decision*. The Council's delegated officer report, together with the planning decision notice, explain why the proposal would be contrary to policy. In doing so, the Council states the policies it considers relevant, which include specific policies within the London Plan, as identified, and the Council's development plan. Although an extensive list of policies with not every one being relevant to the matter at hand, the Council does identify the correct policies when identifying those which it considers the proposal would be contrary to. For decision-making purposes, therefore, the Council acted reasonably in refusing the proposed development on the grounds of the conflict with the policies stated.
6. I note the appellant's willingness to agree to conditions, as was done with the earlier planning consent, ref 12/00872/FUL. However, in accordance with the National Planning Policy Framework and the PPG, planning conditions should only be used to make otherwise unacceptable development acceptable. On this occasion, the Council had concerns for the principle of the development given the inadequate internal floor area of the new dwelling. It was not unreasonable, therefore, for the Council to refuse the development and not consider planning conditions given their in-principle objection.

Conclusion

7. I have found that unreasonable behaviour relating to the Council's decision did not result in unnecessary or wasted expense in the appeal process. I therefore conclude that a partial award of costs, towards the expense of the appeal, is not justified.

R Walmsley

Inspector