
Costs Decision

Site visit made on 11 April 2017

by J J Evans BA (Hons) MA MRTPI

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

Decision date: 13 July 2017

Costs application in relation to Appeal Ref: APP/H5390/W/16/3163242 20 Delaford Street, Hammersmith and Fulham, London SW6 7LT

- 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 Mrs Wendy Tobi for a full award of costs against the Council of the London Borough of Hammersmith & Fulham.
 - The appeal was against the refusal of planning permission for the conversion of the property to provide 2 x 2 bed and 1 x 2 bed self-contained flats; alterations to the rear façade including a new rear door and the formation of a bin store to the front garden and bike storage to the front and rear gardens.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for the costs to incur unnecessary or wasted expense in the appeal process.
 3. The Guidance advises that awards may be procedural relating to the appeal process, or substantive relating to the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. The Guidance makes it clear that costs cannot be claimed for the period during the determination of the planning application, although behaviour of the parties at this time can be taken into account.
 4. The application for a full award of costs has been made in writing and will not be repeated here in any detail. The appellant considers the Council have acted unreasonably in that a scheme has been prevented and delayed that should have been permitted, that vague, generalised and inaccurate assertions have been unsupported by objective analysis, and that similar cases have not been determined in a consistent manner.
 5. As given in my decision I have found substantive reasons for dismissing the appeal. Although the Council's appeal case relies on the officer report, within it is the reasoning for the refusal of the application, including reference to the absence of evidence that the cycle parking could be provided whilst maintaining access to the proposed bins. Whilst I note the appellant states the front garden of 13 Delaford Street is the same size as that at the appeal property, this statement is not consistent with the evidence provided on the
-

plans. Moreover, following the previous appeal decision on the property and having regard to the constraints of the site, a requirement of any subsequent proposal would have been to demonstrate that the required cycle parking was safe and convenient, and also maintained access to the refuse bins.

6. I appreciate there have been other schemes approved by the Council where cycle parking arrangements were a conditional requirement. However, the tests for imposing planning conditions are specified in the National Planning Policy Framework, and the onus is on the Council to ensure that each condition imposed would meet these requirements. It would be remiss of the Council to condition matters that cannot be achieved. Of the other cases cited by the appellant whilst there are some similarities, none are directly comparable to the appeal proposal.
7. The complexity of the planning history for this site would have been frustrating for the appellant. However, the current scheme is not identical to those that preceded it. In this instance the Council have taken a different view to the appellant and given a different weight to the issues. This is not unreasonable, and in refusing the application on the basis of the available evidence development has not been unreasonably delayed.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Guidance has not been demonstrated, and a full award of costs is not justified in this instance.

J J Evans

INSPECTOR