The Planning Inspectorate

Costs Decisions

Site visit made on 18 April 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 31 July 2017

Costs application in relation to Appeal Ref: APP/V5570/W/17/3167530
114 Grosvenor Avenue, Islington, London, N5 2NY

- 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 Tom Tasou 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 a change of use of a former residential home (use class C2) to four self-contained flats and one house (use class C3), rear extension and reconfiguration of rear elevation, excavation at front and rear to form/extend light-wells together with landscaping and provision of refuse and cycle storage.

Costs application in relation to Appeal Ref: APP/V5570/W/17/3167531
114 Grosvenor Avenue, Islington, London, N5 2NY

- 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 Tom Tasou for a full award of costs against the Council of the London Borough of Islington.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for a change of use of a former residential home (Use Class C2) to 2 houses (Use Class C3); rear extension and reconfiguration of rear elevation; excavation at front and rear to form/reinstate light-wells; landscaping; and provision of refuse and cycle storage.

Decision

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

Reasons

2. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, it may be subject to an award of costs.

3. Government policy, in the form of the Written Ministerial Statement (WMS) of 28 November 2014, states that tariff-style contributions should not be sought from developments of 10 dwellings or less [sic]. The Planning Practice Guidance (PPG) was updated to reflect the WMS approach[1] following the judgment by the Court of Appeal on 11 May 2016[2] that the policy stance adopted by the WMS is lawful.

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[1] Paragraph ID 23b-031-20161116
[2] Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

4. However, as explained in my appeal decisions, the publication of government policy, such as the WMS or the National Planning Policy Framework, has not altered the requirement of Section 38(6) of the Planning and Compulsory Purchase Act 2004. This is that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Substantial weight must be attached to the WMS and the PPG but they do not necessarily outweigh the requirements of the development plan.

5. I appreciate that other appeal decisions in Islington have “sided on” the advice in the WMS and the PPG. However, the weight Inspectors give to any material consideration depends upon the totality of the evidence that has been put before them. Therefore, it would not be unreasonable for a Council to make a decision which is seemingly contradictory to an Inspector’s decision if the Council can produce additional evidence or substantiate its case differently to the preceding appeals.

6. Furthermore, numerous other and more recent appeal decisions have been determined in the Council’s favour in respect of this particular matter. I too, for the reasons set out in my appeal decisions, agree with the Council that planning obligations requiring financial contributions towards affordable housing are necessary for the appealed small-scale schemes.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the applicant’s claim for costs fails.

Siobhan Watson

INSPECTOR