
Costs Decision

Site visit made on 26 June 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 4 September 2017

Costs application in relation to Appeal Ref: APP/B5480/W/17/3167736 Hexagon House, 5 Mercury Gardens, Romford RM1 3EL

- 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 John Smith for a full award of costs against the Council of the London Borough of Havering.
 - The appeal was against the refusal of planning permission for erection of seventy one flats on top of the existing building.
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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 who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The application for costs seeks a full award on procedural¹ and substantive grounds².
3. The appellant states that the Council was unreasonable and the refusal was unnecessary as the Council's Committee Members failed to take into account the technical and professional assessment by the Council's officers of the proposal's compliance with the adopted planning policies and other material considerations. The appellant states that the Council's reasons for refusal are vague, generalised assertions about the proposal's impact which are unsupported by any objective analysis.
4. The officer's report demonstrates the Council's view as to how the proposal would affect the character and appearance of the area, living conditions of the future occupants of the proposed flats with particular regard to the standard of accommodation and amenity space; and whether the proposal makes appropriate provision for infrastructure through a Section 106 Agreement using the evidence submitted by the appellant, third party representations and the Council's observations. It clearly sets out the recommendations for approval by the officer.
5. However, this is a matter of planning judgement and the Council Members are not bound by the officer's recommendations and professional advice, in making their final decision. In this instance, a case was made by the planning

¹ Planning Practice Guidance: Paragraph: 047 Reference ID: 16-047-20140306

² Planning Practice Guidance: Paragraph 049 Reference ID 16-049-20140306

committee that the proposal was unacceptable and the reasons for refusal set out in the decision are complete, precise, specific and relevant to the application and have been adequately substantiated by the Council. The reasons for refusal clearly state the policies of the London Borough of Havering Core Strategy and Development Control Policies and Development Plan Document 2008, Romford Area Action Plan Development Plan Document 2008 and London Plan 2016 that the proposal would be in conflict with.

6. I note the appellant's comments regarding the wording of Refusal Reason 3 regarding the absence of a legal agreement and failure to make reference to other relevant contributions required, such as affordable housing, to satisfactorily mitigate the infrastructure impacts of the development. Whilst the Council could be judged to have failed in this respect, I consider this reason for refusal and the officer's report provides sufficient clarity to substantiate the details of the development that were considered unacceptable in this case.
7. Whilst I appreciate the appellant's concerns regarding the discussion by the planning committee and the disparity between the minutes of the committee and the final wording of the decision notice, these are not material considerations to which I can attach significant weight in making this decision.
8. The appellant's response also referred to an appeal costs decision at Bridge Hill, Epping where a similar issue was raised and the costs application was allowed³. However, I am not convinced, based on the limited evidence provided, that the circumstances of this previous costs decision relating to extensions and alterations to an existing dwelling are compellingly similar to those of the appeal scheme. I therefore accord this limited weight as a precedent in this case.
9. The Council's submission and supporting evidence clearly shows that it actively engaged with the appellant during the application process and carried out its duty to assess the development proposal as submitted.
10. It will be seen for the reasons set out in my appeal decision, I concur with the Council on this case that there were sufficient grounds for dismissal relating to the harm caused by the proposed development to the character and appearance of the area, the amenity of the future occupants of the proposed flats and would fail to make appropriate provision for infrastructure in the area. I came to that decision based on my consideration of the details and merits of the development, having regard to all the evidence and other matters raised. Accordingly, I consider that the Council has shown that it was able to substantiate its decision on the above matters and cannot agree that the Council has acted unreasonably in this case.
11. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not justified.

David Troy

INSPECTOR

³ APP/J1535/D/16/3159437