
Costs Decision

Site visit made on 16 October 2017

by Rachael A Bust BSc (Hons) MA MSc LLM MEnvSci MInstLM MCMi MRTPI

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

Decision date: 09 November 2017

Costs application in relation to Appeal Ref: APP/H5390/D/17/3179521 189 Seagrave Road, London SW6 1ST

- 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 Lorna Cobbold 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 loft conversion and minor alterations to existing windows.
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Decision

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

Reasons

2. Paragraph 030 of 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.
3. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant submits that the Council have behaved unreasonably because (i) they have not applied their policies reasonably and have applied 'borough-wide' design policy; and (ii) they have made reference in the reason for refusal to several policies which are not relevant. Consequently, the applicant believes that the submission of the appeal was unnecessary. The Council has not responded to the claim for costs.
5. The Officer Report sets out the development plan policies relevant to the proposal, then tests the proposal against the policy criteria before reaching a view on where the policy conflict arises. The Council has therefore followed the proper procedure and I do not find that they have applied their policies unreasonably.
6. The decision notice cites SPD Housing Policies 7 and 8 of the Planning Guidance Supplementary Planning Document 2013. However, the Officer Report finds compliance with these policies, and as such they should not been included within the reason for refusal. Nevertheless, having regard to the PPG, reference to these SPD policies in the decision notice does not constitute unreasonable behaviour. The reason for refusal is clear in its intent and

reasoning, and makes reference to relevant development plan policies. A reading of the Officer Report would leave no party in any doubt that the inclusion of the SPD policies was an error.

7. Furthermore, the applicant's grounds of appeal, at paragraph 3.3, suggest that it is common ground between the parties that policies BE1 and DM G3 of the development plan are the relevant policies, whilst paragraphs 3.9 to 3.12 make it clear that the SPD policies are not relevant. The applicant has not therefore had to address the matter of conflict with the SPD.
8. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. I therefore determine that the costs application should fail and no award is made.

Rachael A Bust

INSPECTOR