
Costs Decision

Site visit made on 21 November 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 05 December 2017

Costs application in relation to Appeal Ref: APP/Q5300/W/17/3181685 136 Galliard Road, Edmonton N9 7LP

- 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 Ozan Husnu for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for subdivision of site and erection of 1 residential unit involving extensions to existing dwelling.
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Decision

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

Procedural Matter

2. I have taken into account the Government's Planning Practice Guidance (PPG), issued on 6 March 2014, in reaching my decision.

Reasons

3. The PPG advises that, 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 applicant claims that the Council acted unreasonably in producing density calculations which are proven to be wrong and relied on those calculations to assess the proposal as an over development which is used as a reason to refuse planning permission. Furthermore, it is claimed that the Council prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failed to produce evidence to substantiate each reason for refusal on appeal; made vague, generalised or inaccurate assertions about the proposal's impact, unsupported by any objective analysis; refused planning permission on a planning ground capable of being dealt with by conditions; did not review its case promptly following the lodging of the appeal; and persisted in objections to the scheme or elements of the scheme which the Secretary of State and/or Inspector has previously indicated to be acceptable.
5. The matter of density concerns differing interpretations by the parties in the calculation of the number of habitable rooms. Nevertheless, I am satisfied that although cited by the Council as a basis for considering the proposal to be an over-development, it was not the sole or determining factor in coming to its conclusions. Indeed, the density of development is not specifically referred to

in the Councils reason for refusal. In clarifying its position relating to density, I do not consider this to constitute the Council withdrawing a reason for refusal. Policy DMD6 of the Enfield Council Development Management Document relates generally to residential character. Whilst it partly refers to density, as does policy DMD7, there are other criteria listed relating to the main issue identified in my appeal decision.

6. In respect of the issue concerning the positioning of the proposal 2 metres away from the side boundary, that was not the sole reason for refusal. The advice given by the Council, based on the evidence before me, did not suggest that the extension as a whole, being 2 metres from the side boundary and extending rearwards at two storey height, would be acceptable. Furthermore, as I have found in my appeal decision, there would be material differences to the extension granted planning permission at No 243 Galliard Road which transpired following a previously dismissed appeal at that site.
7. The appellant claims that the Council has introduced a new reason for refusal on design grounds, due to its depth and scale of the proposed two-storey projection. I do not consider this to be a new reason for refusal as it is consistent with the Council's reasoning within its decision notice and officer report and those policies referred to in the former, albeit that policies DMD37 and DMD38 are not referred to in it.
8. Furthermore, I am generally satisfied that the Council adequately set out and substantiated, in its decision notice and officer report respectively, its reason for refusal, having regard to relevant development plan policies, and further clarified its position in its appeal statement. The aspects of the proposal found by the Council to be unacceptable, concerning the main issue identified in my appeal decision, would also not be of a nature that could have been addressed by conditions.
9. In conclusion, for the above reasons, I find that the Council did not behave unreasonably in determining the application and in its response to the appeal and that, therefore, the applicant's costs in pursuing the appeal were not unnecessarily incurred or wasted. For this reason, and having regard to all other matters raised, neither a full or partial award of costs is justified.

Andrew Dawe

INSPECTOR