
Costs Decision

Site visit made on 27 November 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 18th December 2017

Costs application in relation to Appeal Ref: APP/Q5300/W/17/3181172 Public House, 1 High Street, Enfield EN3 4EJ

- 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 Yaman Properties Limited 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 demolition of single storey extensions to the existing original building and erection of a five storey extension over basement with alterations to the existing building to provide a retail unit (use Class A1) having a floor area of approximately 597 sq m at ground and basement levels and eight self-contained residential units (Use Class C3) including two existing units, together with alteration to existing vehicular access, service road and areas for parking, service yard, refuse and bicycles and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance (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 expense in the appeal process.
3. The applicant alleges that the Council was uncooperative and refused to enter into discussions. Furthermore, it did not consider crucial documents, and as a result, has failed to properly process and assess the planning application. Moreover, it has not produced evidence to substantiate each reason for refusal. External consultees did not have access to all relevant information which resulted in unnecessary objections. The Council also used the wrong measurements in respect of reason for refusal number 3. Furthermore a number of the issues could have been dealt with by the imposition of a planning condition.
4. The Council did not refer to a number of documents and drawings on its decision notice. However, from the evidence before me, it appears that the only document the Council did not have access to when assessing the planning application was the applicant's Tree Report 2016 (TR). This is verified by the Council's Tree Officer (CTO) in his consultation response to the planning application.

5. The Environment Agency in its consultation response refers to the submitted Flood Risk Assessment, and the details of the culvert inspection and states that it needs further information regarding the culvert. Although the applicant alleges that the required information had been submitted, I have found this not to be the case in my decision, particularly with regard to the route and depth of the culvert.
6. In addition the Traffic and Transportation Officer (TTO) refers to the Transport Assessment (TA) within their consultation response. I understand that following the identification of a discrepancy between the TA and the originally submitted drawings, with respect to the number of cycle parking spaces, the applicant attempted to submit revised drawings 1HS-8F-01A, 1HS-8F-02A and 1HS-8F-07A to address the issue. However, according to the email exchange between the Council and the applicant, dated 17 March, these were not accepted by the Council.
7. This is confirmed by the Council in its statement with reference to its Planning Charter. This states that 'Where the Local Planning Authorities concern about the proposed development is more fundamental requiring substantive revision, the application may be determined without entering into discussions with either the Agent or the Applicant'. The Council was very clear in its email of 17 March that it considered that the proposal was not acceptable with respect to the impact on the character and appearance of the area and a number of issues raised by the TTO and offered the applicant the option of having the application refused or to withdraw it.
8. As the Council had fundamental concerns regarding the proposals, which I share, and, bearing in mind the contents of its Planning Charter I am satisfied that the Council has not acted unreasonably in this respect by not engaging with the appellant, accepting the revised drawings, or requesting the Tree Report to be submitted. If the Council had accepted the revised drawings, it may have been that the issue of cycle parking could have been resolved, although this is not certain. However, the other objections raised by the TTO would have remained.
9. The Council confirms in its statement that the wrong measurements were used to assess the relationship between the proposed extension and 25 Woodcote Close. However, having ascertained the correct distances involved, it still considered the relationship to be harmful. Although I have reached a different conclusion, I am satisfied that the Council corrected its mistake, and justified its stance with regard to this issue, within its statement, with reference to relevant Policy within the Development Management Document 2014 (the DMD).
10. I have also found, in my decision that the detail required to be submitted to satisfy the requirements of the Environment Agency and the Council's SuDs Officer, is substantial. Furthermore, there is no guarantee that on the receipt of the information, it would have been acceptable to the consultees. As a result, it is not reasonable that such details be secured by a condition. While I have found that details of refuse and recycling provision could have been secured by the imposition of a condition, this would not have prevented the refusal of the application as a whole and the subsequent appeal. Unreasonable behaviour in this respect has not therefore been demonstrated.

11. I am satisfied, based on the evidence before me in the Council's application report and subsequent appeal statement that the Council demonstrated that the proposal had been considered against relevant policy from the development plan. Furthermore, the reasons for refusal have been sufficiently justified based on the information that was before the Council at the time of its consideration of the planning application. Indeed, I have agreed with the Council in most instances.
12. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, for the reasons given above, I refuse the application for an award of costs.

Zoe Raygen

INSPECTOR