



Costs Decision

Site visit made on 14 November 2017

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 3rd January 2018

Costs application in relation to Appeal Ref: APP/Q5300/W/17/3179439 1-24 River Bank, Southgate, London N21 2AA

- 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 Nikon Developments Limited for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of the Council to grant planning permission for the formation of third floor involving roof and dormer windows to all elevations to provide 2 x 2 bedroom self-contained flats, 3 storey rear extension to provide lift shaft and installation of French doors and Juliette balconies to the rear of all 4 blocks to provide a total of 8 additional residential units.
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Decision

1. The application for a full award of costs is refused but a partial award of costs is allowed.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary costs in the appeal process. Examples of the type of behaviour which may give rise to an award of costs against a local planning authority are set out in paragraphs 47 and 49 of the Guidance.
3. The applicant applied for an award of costs. It is considered that the Council behaved unreasonably in relation to the second reason for refusal (RR2), which states there would be conflict with servicing vehicles and an overprovision of car parking. In respect of servicing, the proposed parking and servicing arrangements were unchanged from those approved in 2014, which were found to be acceptable in 2014. In relation to car parking, 16 spaces were proposed for 8 flats in the application approved in 2014, and whilst the 2016 application to vary the approved plans was refused there were no objections on highway grounds.
4. Although the Council has stated that the parking situation is essentially different to that existing at the time the previous application was permitted in 2014, it has not explained in any detail why that is the case, and whilst there were four objections to the appeal scheme in comparison with no objections to the earlier application, there is no evidence that the parking situation has materially worsened since that time. Furthermore, if the Council considered that fewer parking spaces were required this could have been dealt with by means of a condition requiring a revised parking layout to be approved.

5. Turning to RR3, the design of the earlier scheme for an additional storey was found to be acceptable, and it does not differ significantly in external appearance from that of the current appeal scheme. The Council does not consider that the appeal scheme should be treated favourably because an earlier permitted scheme of a similar nature had just expired. Nonetheless, I have determined the appeal on its own merits and concluded that the development would not harm the character and appearance of the host properties or the surrounding area.
6. Further to the above, whilst the DMD was adopted after the earlier scheme was approved, the Core Strategy of 2010 was in place at that time and policies CP4 and CP30 were included in the Decision Notice in relation to RR3. Moreover, the general thrust of the Council's detailed design policies, in seeking to ensure that new buildings are appropriate to their context and sympathetic in scale and form to their surroundings would not have been substantially different from that of the policies contained within the Unitary Development Plan. Consequently the Council were unreasonable in refusing the appeal proposal on design grounds given its similarity to the earlier scheme.
7. In conclusion I have found that the Council's behaviour was unreasonable with regard to matters of design and parking and servicing, leading to unnecessary or wasted expense for the applicant in defending these arguments at appeal. However, the requirement for private amenity space for 2 bedroom flats that did not exist at the time of determining the 2012 application, and the Development Plan Document (2014) was adopted after planning permission was granted, and as I have concluded that private amenity space would be required for the new 2 bedroom flats in accordance with Policy DMD9, the appeal would not have been avoided.
8. Nevertheless, as unreasonable behaviour leading to unnecessary or wasted expense in the appeal process on the part of the Council, as set out in the Guidance has been demonstrated relating to the matters of parking and design, a partial award of costs is justified in this instance.

Costs Order

9. In exercise of the powers under section 250 (5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers on that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Enfield shall pay to Nikon Developments Limited the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to the Council of the London Borough of Enfield, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Claire Victory

INSPECTOR