



Costs Decision

Site visit made on 27 February 2018

by C Victory BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2018

Costs application in relation to Appeal Ref: APP/W5780/W/17/3180327 792-808 High Road and 2-10 Goodmayes, Ilford IG3 8TH

- 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 Countrywide Developments (UK) Plc for a partial award of costs against the Council of the London Borough of Redbridge.
 - The appeal was against the refusal of the Council to grant planning permission for the extension of the property at the rear, two additional storeys together with alterations to existing mansard and internal re-configuration to provide a 40 bedroom hotel, retain the commercial units on ground floor level and 15 residential units comprised of 7 x 1 bedroom and 8 x 2 bedroom flats on the first to fourth floor, provision of a disabled parking bay, cycle stands and bin store.
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Decision

1. The application for costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unreasonable or wasted expense in the appeal process.
3. Countrywide Developments (UK) applied for a partial award of costs. It contends that the Council's second reason for refusal, relating to private amenity space, is unsubstantiated. The applicant then supplemented its application for costs by reference to the Council's behaviour regarding the recent adoption of its Local Plan.
4. The second reason for refusal (RR2) states that "the proposal makes insufficient provision for amenity space to be provided at the site and so would be detrimental to the amenities enjoyed by prospective occupants of this development." The Council's planning officer recommended approval of the scheme, but the Council's Regulatory Planning Committee determined that the application be refused. The committee are entitled to come to a different view, providing that the decision is supported by evidence.
5. The Council has stated that the members of the Regulatory Planning Committee considered that the appeal proposal should provide an enhancement over the existing situation, whereby the existing 15 flats have no private amenity space. It is the case that two flats in the extended part of the development on the fourth floor would have relatively large balconies, that would provide space for occupants to sit out, hang washing or other domestic

activities. This would be an improvement on the existing situation where no flats have private amenity space.

6. Furthermore, the applicant has asserted that in converting the existing building, the addition of balconies would not be appropriate as there are no other examples of buildings with balconies within the High Road frontage. This point was not addressed by the Council and its appeal statement was scant in setting out its position on RR2, other than to reiterate the committee's conclusion that the proposal should be an improvement on existing provision. Overall the Council's case was general in nature and was unsupported by any objective analysis of the appeal property and its surroundings.
7. Based on the evidence before me, including the particular circumstances of the site, I found that the development would provide satisfactory living accommodation for future occupants, and conclude that RR2 has not been substantiated. A partial award relating to the costs incurred by the applicant in defending arguments relating to this matter during the appeal is therefore appropriate.
8. The applicant has also objected to the Council's behaviour since the adoption of its Local Plan in March 2018. It is the role of the decision maker to determine the appeal on the basis of the most up to date planning policy framework and the Council provided copies of the relevant policies. It chose not to make any additional comments on the appeal in relation to the newly adopted plan policies. However, although LP Policy LP29 does set out a slightly different requirement to Policy BD4 of the Borough Wide Primary Policies (2008), as the proposal did not comply with either in terms of the quantity of private amenity space this would not have made any difference to the outcome of the appeal.

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 Act 1990 as amended, and all other enabling powers on that behalf. IT IS HEREBY ORDERED that the Council of the London Borough of Redbridge shall pay to Countrywide Developments (UK) Plc the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in defending arguments relating to the provision of private amenity space.
10. The applicant is now invited to submit to the Council of the London Borough of Redbridge, 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.

C Victory

INSPECTOR