

---

## Costs Decision

Site visit made on 3 July 2018

**by Luke Perkins BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23<sup>rd</sup> August 2018**

---

### **Costs application in relation to Appeal Ref: APP/B5480/W/18/3196281 327 London Road, Romford RM7 9NS**

- 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 Bharadia for a full award of costs against the Council of the London Borough of Havering.
  - The appeal was against the refusal of planning permission for a proposed development described as the conversion of the dwelling into its original 3 bedroom state and use the existing extension along with the proposed extension to create an additional 3 bed dwelling.
- 

### **Decision**

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

### **Reasons**

2. Paragraph 030 of the Planning Practice Guidance (the PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Examples of behaviour that might give rise to a claim against a local planning authority are set out in paragraphs 047 to 049 of the PPG. The Council considers none of the examples are applicable in this case and that its reason for refusal was clear, complete, specific, relevant to the proposal and substantiated with evidence and planning policy.
3. The appellant has cited a number of appeal decisions where the approach set out in the Written Ministerial Statement of 28 November 2014 has been favoured over relevant development plan policies. However, in each decision, the weight ascribed to each matter in support of and against a development will differ depending on the evidence. Indeed, this is illustrated by the fact that the Council has also referred to other appeal decisions where, on the facts of those cases, a different view has been reached. Accordingly, while I accept that the cases cited by the appellant supports his case in favour of the granting of planning permission, it does not demonstrate unreasonable behaviour on the part of the Council in coming to a contrary view.
4. The appellant wishes to know precisely what schools infrastructure would be funded by the financial contribution sought by the Council who explain in their appeal statement that it would not be suitable to have the contribution allocated to one particular project as the timing of the contribution (based on

the commencement of the development) is not within the Council's control. I have sympathy with this argument and the Council also state that through negotiation the appellant could agree with the Council a list of schools to be included in any obligation. As the appellant does not agree to the contribution in principle it is reasonable that the Council have not developed plans for precisely where the contribution would be spent.

5. Whilst I have given considerable weight to the 'child yield' explanation set out by the appellant in their appeal statement in deciding the planning appeal, the Council reasonably relied on the evidence base behind its Planning Obligations Supplementary Planning Document (SPG) to assess the impact of an additional dwelling on education infrastructure in the borough. Appeal decision APP/B580/W/16/3165465 cited by the appellant to support their case contained occupancy information (i.e. information on the likely child yield) and although I have decided the planning appeal in the appellant's favour, based on the evidence before me, there was no child yield information in the planning application documents which were before the Council when it made its decision on the planning application. It is not therefore the case that the development should clearly have been permitted.
6. The PPG states that conditions requiring financial contributions are unlikely to be appropriate in the majority of cases<sup>1</sup>. The appellant relies on the SPG to support their view that the Council should have imposed a condition but both parties agree the SPG is out of date. Whilst the appellant also considers the Council not imposing a condition to secure the planning obligation contrary to the draft London Plan (December 2017), I give this document little weight in respect of this matter given it is still in the early stages of preparation and will likely be subject to change before adoption.
7. I have not seen evidence that any delays encountered by the appellant in this case have resulted in unnecessary or wasted expense and as the PPG states, awards cannot extend to compensation for indirect losses<sup>2</sup>. Since their original costs submission, the appellant has supplemented their claim as the Council copied the appeal questionnaire and attachments to the appellant 4 weeks late. I understand this means the appellant may have had to dedicate time to considering this information at a time when they wanted to focus on reviewing the Council's appeal statement and whilst I do not condone the late submission of documents by any party during the appeal process without good reason, I do not see this has caused the appellant to incur additional unnecessary or wasted expense, particularly given the limited number of issues in this case.

## **Conclusion**

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

*Luke Perkins*

INSPECTOR

---

<sup>1</sup> Use of planning conditions, paragraphs 005 and 010

<sup>2</sup> Appeals, paragraph 032