



Costs Decisions

Site visit made on 2 July 2019

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Costs application in relation to Appeal A Ref: APP/N5660/W/19/3224817 12 Conyers Road, London SW16 6LT

- 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 Martali Management Ltd for a full award of costs against the Council of the London Borough of Lambeth.
 - The appeal was against the refusal of planning permission for conversion of the property into 8 self contained flats, involving the erection of part single /part two storey rear and side extension including making the existing basement into habitable rooms, together with erection of a rear roof extension with 2 dormers plus the provision of refuse and cycle stores and other associated alterations.
-

Costs application in relation to Appeal B Ref: APP/N5660/W/19/3224818 12 Conyers Road, London SW16 6LT

- 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 Martali Management Ltd for a partial award of costs against the Council of the London Borough of Lambeth.
 - The appeal was against the planning permission for erection of a part single/ part two storey rear extension, erection of a two storey side extension; provision of two tiled gable dormers to the rear roof slope; and division of existing 3 flats to provide a total of 8 self-contained flats.
-

Procedural Matters

1. As set out above, there are separate costs applications in relation to two planning appeals at this site. The appellants' applications for costs relate to two reasons for refusal on issues of residential mix and parking permits. These issues are the basis of both reasons for refusal in Appeal A and in this regard the appellants have made a full application for costs. These matters are the basis for two of the three reasons for refusal for Appeal B and in respect of this appeal the appellants have submitted a partial application for costs.
2. I have considered each appeal and each associated application for costs on its own individual merits. However, to avoid duplication I have dealt with the two applications together.

Decision

Application in relation to Appeal A

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

Application in relation to Appeal B

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

Reasons

Residential Mix

5. The appellants emphasise that the Council has relied on a South West London Strategic Housing Market Assessment (SHMA) which dates from 2011. They also state that more recent evidence states that the greatest shortfall in the area is for 1 and 2-bedroom accommodation.
6. I acknowledge that paragraph 5.19 of the supporting text for Policy H4 of the Lambeth Local Plan 2015 (Local Plan) refers to the SHMA in the context of social/affordable rented and intermediate accommodation. However, the SHMA is part of the evidence base to support the Local Plan and it is not unreasonable for the Council to refer to this when assessing the preferred dwelling mix for market housing.
7. Whilst the proposals would lead to the provision of 1 extra flat compared to the extant planning permission, this benefit would be limited even allowing for more recent evidence with regard to demand for smaller dwellings. Moreover, it is also reasonable that the assessment of a balanced mix should not only consider the number of units but the nature of occupancy. In relation to the number of single occupancy flats, both Appeal A and Appeal B are materially different from the extant planning permission in the proportion of single occupancy 1 bed flats, to the detriment of the proposed housing mix.
8. It is also clear from the Council's Statement of Case that it has appropriately assessed the proposals against Policy H6 of the Local Plan with regards to the provision of a family sized dwelling at ground floor level. Although the proposal complies with Policy H6, it is clear that it should also be assessed against Policy H4.
9. As can be seen from my Appeal Decisions I consider that the Council's concerns in respect of a balanced mix of unit sizes as well as appropriateness in this suburban location are well founded. The Council has substantiated its reasons for refusal on this main issue and this has therefore not led to an appeal which could otherwise have been avoided. I therefore cannot conclude that the Council has behaved unreasonably in this respect.

Parking Permits

10. In respect of this issue, the appellants emphasise that the Council's own policy clearly states that in areas of high parking stress that it is all additional units which should be capped. Whilst the Council consider that the proposal involves 8 new units, they have not substantiated why they have reached this conclusion or the lack of consideration for the fact that there were 3 units of accommodation on the original site.
11. The appellants have provided an appeal decision¹ on Clapham Road in the Borough which clearly states that this approach is not fairly and reasonably related in scale and kind to the development. Although the Clapham Road decision post-dates the Council's decision on the proposals before me, it was

¹ APP/N5660/W/18/3208475

submitted to the Council with the appeal and despite this the Council has continued to pursue this issue. Whilst the Council claim that the Clapham Road proposal related to extensions to existing units, it is clear from the Inspector's Decision that his reasoning related to the number of additional occupiers rather than the configuration of the flats. I consider that in respect of this specific issue, the Council has been unable to substantiate a stance which is contrary to its own policies and which the evidence suggests is unnecessary. This amounts to unreasonable behaviour.

12. However, turning to the matter of wasted expense, the appellants had already submitted a Parking Technical Report with the application. Whilst the appellants have had to respond on the matter of the extent of car permit free accommodation, the appellants' response is straightforward and has not involved extra supporting evidence other than a short rebuttal. It seems to me that in reality there has been so little extra work in responding on this matter that it can be regarded as 'de minimis'.
13. I am also mindful that the reasons for refusal on parking issues refer to a lack of legal agreements addressing wider issues including a controlled parking zone and a car club. Whilst Unilateral Undertakings have been submitted as part of the appeal process, these were not in front of the Council at the time it made its decision. The issue of permit free accommodation is therefore only one of the issues identified by the Council as part of the reasons for refusal on this matter.
14. As a result, whilst the Council has behaved unreasonably in pursuing the issue of permit free parking contrary to its own policies and evidence provided with the appeal, the appellants have been able to quickly and easily respond on this specific element of the Council's decisions without wasting expenditure.

Conclusion

15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, awards for costs are not justified.

David Cross

INSPECTOR