
Costs Decision

Site visit made on 2 July 2019

by J Williamson BSc (Hons), MPlan, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2019

Costs application in relation to Appeal Ref: APP/W5780/W/19/3228108 GB Foods, 225-227 Ley Street, ILDFORD IG1 4BL

- 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 Yusuf Polat for a full award of costs against London Borough of Redbridge.
 - The appeal was against the refusal of planning permission for single-storey rear extension with roller shutter access and relocation of staircase to the above flats.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, Paragraph 030 of the National Planning Practice Guidance (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.
3. Unreasonable behaviour can relate to procedural matters (ie the appeal process) or substantive matters (ie issues related to the planning merits of the appeal).
4. The appellant considers the Council behaved unreasonably resulting in unnecessary and wasted expense in the appeal. With reference to examples of unreasonable behaviour provided in the PPG the appellant claims that there was a lack of co-operation between the parties and a delay in providing information or failure to adhere to deadlines.
5. The appellant describes the background to the planning application being submitted, which followed visits by Council Enforcement Officers who, it is alleged, encouraged him to make an application. On this basis he instructed professionals to prepare all the relevant documents and apply, believing this would be approved by the Local Planning Authority (LPA). The Council refused the application on the date of the 8-week deadline, without any communication with the appellant whilst it was being processed. The appellant considers this to constitute unreasonable behaviour.
6. The Council considers it processed and determined the application in a timely and reasonable manner with due regard to relevant policy and material considerations, concluding that the development was harmful in respect of the

host property and the character and appearance of the area. The Council asserts that there isn't any evidence to demonstrate that Enforcement Officers suggested that the development was acceptable. Regardless, any advice provided to the applicant prior to submitting the application would not have influenced its outcome.

7. I note that a material consideration is the National Planning Policy Framework, paragraph 38 of which states that local planning authorities should approach decision-making in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. The Council acknowledges that it did not work proactively with the appellant but considers this to be reasonable as development had already occurred and it was deemed to be harmful and contrary to policy.
8. I consider that, although some degree of communication with the appellant prior to determination would have been more in the spirit of paragraph 38 of the Framework, as the development had been implemented there would appear to be little gained from negotiation. Even if the Council had engaged with the appellant during the process it could still have reached the conclusion that it did. Whilst my conclusion on the substantive issues differs from the Council, in the circumstances of the case there is no evidence that the Council acted unreasonably in terms of its processing of the application.
9. Having regard to all the evidence I conclude that the behaviour of the Council was not unreasonable to the extent that it resulted in unnecessary or wasted expense, as described in the PPG, in the appeal process.

J Williamson
INSPECTOR