The Planning Inspectorate

Costs Decision

Hearing Held on 23 July 2019
Site visit made on 23 July 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th August 2019

Costs application in relation to Appeal Ref: APP/M5450/W/18/3208629
231-233 High Road, Harrow HA3 5EE

- 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 Eric Gadsden of W E Black Limited for a full award of costs against the Council of the London Borough of Harrow.
- The hearing was in connection with an appeal against the refusal of planning permission for: Redevelopment to provide three to four storey building to create 15 flats; parking; associated landscaping; refuse and cycle storage; widening of one existing vehicle access.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG states that behaviour and actions at the time of the planning application can be taken into account in considering whether or not costs should be awarded.

3. The applicant considers the Council delayed their application. But the evidence indicates the Council were not provided with all the information necessary to validate the application when it was first submitted and that, once provided, the Council decided the application within the statutorily prescribed period. Therefore, I am not satisfied the Council caused delay in this case.

4. In addition, the applicant considers the Council should have opened a dialogue with them during the course of the application to allow issues to be identified and resolved. Specifically, as expressed at the hearing, the applicant sees the consideration of a planning application as an iterative process which should allow for negotiation and amendments, the cost of which is covered by the fee paid for processing an application.

5. Limited information has been provided to satisfy me that the above view is supported by planning regulations or the National Planning Policy Framework. The Framework advocates pre-application engagement and the front-loading of the planning process, a position which is indorsed by the Council. In this case pre-application advice was not sought before the application was submitted to

the Council or after the Council's decision was issued. Instead the applicant sought to amend the scheme through the appeal process.

6. At the hearing the applicant expressed concerns about seeking pre-application advice nevertheless this is the means by which the Council provides advice and I am satisfied this approach accords with national policy. I am also satisfied there was no obligation on the Council to have sought amendments to this scheme, particularly given the number of issues identified, and, as is reflected in my appeal decision, the amendments submitted did not resolve all concerns with the scheme in any event and so an appeal was unavoidable.

7. In respect of reasons for refusal 1 and 2, the Council identified harm to the side garden and habitable rooms of Durrant Court. Whilst I have not agreed with all concerns raised by the Council in this respect, their concerns were legitimate and well-founded and clearly explained. But it was a matter of planning judgement as to whether the development was acceptable in these regards.

8. In respect of reason for refusal 3, the applicant considers that if a tree survey/arboriculture assessment was required it should have been requested at the point the planning application was validated. However, the validation of applications is an administrative process. It is not the point at which the acceptability of a scheme in planning terms is assessed. Moreover, given the content of section 15 of the planning application form and the lack of pre-application advice sought it should not come as a surprise that a tree survey/arboriculture assessment was necessary.

9. In respect of reason for refusal 4, whilst I did not entirely agree with the Council's assessment, I am satisfied the Council clearly identified the harm it believed would occur as a result of the proposed levels of hardstanding and that it supported this view with relevant planning policies. Although the Council's highways department did not object to the proposal, the effect of the proposal on the character and appearance of the area and on the living conditions of neighbouring occupiers are matters of planning judgement rather than highways expertise.

10. In respect of reason for refusal 5, whilst the bin store amendment submitted resolved the Council's concern in respect of nuisance, it generated a new issue in respect of the effect on character and appearance. My judgement of the harm in this respect does not reflect that of the Council's but I am satisfied the Council's concern was legitimate and well-founded.

11. Considering all of the above points, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

L Perkins

INSPECTOR