



Costs Decision

Hearing Held on 9 July 2019

Site visit made on 9 July 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2019

Costs application in relation to Appeal Ref: APP/F5540/W/19/3223651 Pissarros On The River, Corney Reach Way, London W4 2TR

- 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 Corney Reach Way Limited for a full award of costs against the Council of the London Borough of Hounslow.
 - The hearing was in connection with an appeal against the refusal of planning permission for demolition of existing building and the erection of a part one, part two and three storey block providing seven residential units and associated access, amenity space, landscaping, refuse storage and car and cycle parking.
-

Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant considers that the Council's decision to refuse planning permission did not acknowledge the narrow range of issues to be resolved following a previous July 2018 appeal decision at the same site¹ and that the refusal reasons given do not clearly identify where the alleged harm from the proposal lies.
4. As the Council has correctly stated, its Planning Committee was entitled to come to a different decision to that recommended to them by its officers. This would not be unreasonable, provided that the conclusions drawn were reasonable and properly substantiated. It is the case that each proposal must be adjudged on its own individual merits at the point in time of its determination, notwithstanding any relevant planning history that might exist. I also note that any pre-application advice given would have been without prejudice.
5. The first reason for refusal is focussed upon alleged harm to neighbouring residents through loss of outlook and a sense of enclosure. I am aware that the same reason for refusal was applied with respect to the scheme that was dismissed at appeal in 2018 and that the Inspector, in awarding costs, noted

¹ APP/F5540/W/18/3197154

that the Council did not identify which occupiers would be affected. With respect to the case before me however, the Council's appeal statement pinpoints the specific occupiers that they consider would be adversely affected and this was further clarified through discussion at the Hearing itself.

6. Whilst the scheme has been scaled down in comparison to the 2018 scheme in the interests of countering outlook/sense of enclosure concerns, it is still the case that the proposal involves the replacement of an existing building with development of larger footprint coverage and greater overall height. It was reasonable therefore, notwithstanding my conclusions reached on the planning appeal to which this costs application relates, for the first reason for refusal to be applied.
7. With respect to the second reason for refusal, whilst its wording is somewhat generic, the Council's appeal statement is helpful in clarifying that their objection to the proposal in design terms is with respect to the lack of direct access offered to the Thames Path. The reason's specific references to land use mix and the site's role in promoting water-related uses and infrastructure have, I consider, been properly substantiated through the Council's written evidence and discussion at the Hearing. Notwithstanding my conclusions reached on the planning appeal, I am content that the Council acted reasonably in applying its second refusal reason. I also note reference to relevant Local Plan policies in the reason given.
8. In terms of the third reason for refusal, it is apparent that additional information was before the Council that, I understand, was not before them when determining similar applications for residential development at the appeal site previously. This additional information included legal advice given to objecting third parties that considered the development plan policy that was ultimately quoted in the refusal reason. I also note, notwithstanding that prior approval was granted for its demolition in 2016, the existing building was, during inspection, still in place at the site. In the context outlined here I am content that the third reason for refusal was reasonable and properly substantiated. This is again notwithstanding my conclusions reached with respect to the planning appeal to which this costs application relates.
9. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Having had regard to all other matters raised, an award of costs is therefore not justified.

Andrew Smith

INSPECTOR