
Costs Decision

Site visit made on 23 July 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2019

Costs application in relation to Appeal Ref: APP/F5540/W/19/3228337 165 Gunnersbury Lane, Acton W3 8LJ

- 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 Mrs Eileen Cragg for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against the refusal of planning permission for conversion of the existing property into 6 self-contained flats (2x studios, 2x1 bed and 2x3 bed) including a single storey side extension, part single and part two storey rear extensions, alterations to the fenestration and alterations to rear dormer and associated alterations to the rear garden area and provision of a bin store and cycle storage.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) 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 or wasted expense in the appeal process.
3. PPG also provides examples of unreasonable behaviour by local planning authorities. These include the failure to produce evidence to substantiate reasons for refusal as well as vague, generalised or inaccurate assertions unsupported by objective analysis and preventing or delaying development that should have been permitted.
4. The appellant considers that the proposal accorded with the Council's policies and guidance and therefore they acted unreasonably by refusing the application. The appellant is dissatisfied with the outcome of their engagement with the Council, during and prior to the application. This included the calculation of existing and proposed floor space, the lack of a visit by the Council and what constituted appropriate living conditions. She also feels that any minor shortfall and the way in which the THS¹ have been used were not appropriate or sufficient to warrant refusal.
5. Advice before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application. The Council are not bound to take measurements at the site and the issue of the size of the studio units

¹ Technical Housing Standards-Nationally Described Space Standard

was expanded on with the additional drawing submitted as part of the appeal. Even if they had considered the size of the building and proposed units to be sufficient, there is no indication that this would have led to planning permission being granted given their findings on other matters. Moreover, as a result of the absence of control over the scheme being car-free the appeal has been dismissed. Therefore, the appeal would not have been avoided.

6. While an objective analysis of the relevant matters is required, there will inevitably be an element of subjectivity. In this case that included what parties considered to be satisfactory living conditions, the character of the area and the suitability of the building for conversion. Although I disagreed with the Council on certain matters, I have found that the Council justified its decision. Their refusal reasons were adequately substantiated and related to relevant planning policies. That the main parties disagree over the weight to be afforded to matters in the planning judgement is not uncommon and does not imply that one party has been unreasonable.
7. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case and there can be no question that the appellant was put to unnecessary or wasted expense.

Conclusion

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

Stuart Willis

INSPECTOR