



Costs Decision

Site visit made on 14 August 2019

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 September 2019

Costs application in relation to Appeal Ref: APP/B5480/W/19/3222407 24 Severn Drive, Upminster RM14 1SW

- 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 Lee Stimpson for a full award of costs against the Council of the London Borough of Havering.
 - The appeal was against the refusal of planning permission for a single storey nursery classroom and the variation of condition 5 to increase the number of children from 52 to 64 of Appeal re: APP/B5480/18/3194356.
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- 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 Lee Stimpson for a full award of costs against the Council of the London Borough of Havering.
 - The appeal was against the refusal of planning permission for a single storey nursery classroom extension & the variation of condition 5 of planning application P.0731.17 (allowed at appeal REF : APP/B5480/W/18/3194356) to increase the number of children from 52 to 64).
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Decision

1. The applications are refused.

Background

2. The appellant submitted two appeals as described in the banner heading above. A single application for an award of costs was made in respect of both appeals. I have considered the application for an award of costs accordingly.

Reasons

3. Irrespective of the outcome of an appeal the Planning Practice Guidance (the Guidance) states that an award of costs may be made where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour can be procedural or it can relate to the substance of the matters under consideration as part of the appeal.
4. The Guidance gives examples at paragraph 049 of the types of behaviour which may give rise to a substantive award of costs against a local planning authority. The appellant's application for an award of costs relies on the Council failing to produce evidence to substantiate each reason for refusal on appeal and that vague, generalised or inaccurate assertions about the proposal's impact were unsupported by any objective analysis. This, the

appellant argues, amounts to unreasonable behaviour and has resulted in the unnecessary expense of commissioning a noise report and the running of the appeals.

5. I disagree. Whilst I have reached a different conclusion to that reached by the Council in my decision on the appeals, the officer report, decision notice and Statement of Case clearly set out the basis for the Council's decision. The advice of the Council's Public Protection team was clearly a factor in the Council's consideration of the proposals. Whilst perhaps not to the depth of detail of the appellant's noise reports, the Council's consultee response nonetheless identified a number of areas of concern with regard to the appellant's noise reports. Although I have reached a different conclusion to that reached by the Council, I do not consider it to have been unreasonable to reach the conclusion that they did in this respect.
6. As I have concluded that the Council have not acted unreasonably in respect of either appeal, it cannot be the case that the appellant has incurred unnecessary or wasted expense. An award of costs is not therefore justified in either instance.

Graeme Robbie

INSPECTOR