
Costs Decision

Site visit made on 13 August 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 1st October 2019

Costs application in relation to Appeal Ref: APP/Q5300/W/19/3223823 85 Nursery Road, Southgate, London N14 5QG

- 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 Ozcan Hassan for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for conversion and sub-division of property into 3 x 2 bed and 1 x 3 bed self-contained flats involving two storey side extension and vehicular access.
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Costs application in relation to Appeal Ref: APP/Q5300/W/19/3223819 85 Nursery Road, Southgate, London N14 5QG

- 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 Ozcan Hassan for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for sub-division of the existing house to form 2no flats and erection of a new two-storey building on land to the side comprising 2no flats. Associated amenity space, 1no parking space, cycle and refuse storage.
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Decision

1. The application for an award of costs for Appeal A is refused and the application for an award of costs for Appeal B is refused.

Reasons

2. The Planning Practice Guidance (the 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. Both applications are seeking to recover the full costs incurred in the appeal process on the grounds that the Council behaved unreasonably by providing inconsistent advice at the pre-application and determination stages, by failing to engage with the applicant during the processing of the application and, in the case of Appeal A, not allowing the appellant the opportunity to amend the plans before the decision was issued. Concerns have also been raised in respect of the consistency of decision making, with specific reference to the previous refused applications at this site. My attention has also been drawn to costs associated with the delay of construction on site and financial fees.

4. Evidence submitted with the appeals indicates that pre-application advice was provided on several occasions, including in respect of proposals for a detached dwelling, an end of terrace property or 3 flats with associated parking. From the evidence before me, the formal pre-application advice provided by the Council does not appear directly relevant to the applications the subject of the appeals, which were for 4 flats. In any case, the PPG is clear that pre-application advice is not binding and it cannot pre-empt the democratic decision making process in the event that a planning application is made.
5. The Council was entitled not to accept amended plans and to determine the application the subject of Appeal A on the basis of the plans submitted with the planning application. I accept that the appellant considers that an amended internal layout could overcome the Council's concerns in respect of the internal living accommodation. However, this was not the only reason for refusal and it therefore seems reasonably unlikely that the appeal could have been avoided even if the Council had accepted the amended plans.
6. I accept that a previous application (ref 18/00176/FUL) at this site was not refused on the grounds of internal living accommodation. Notwithstanding, the two appeals have provided the appellant with the opportunity to test the Council's decisions. As can be seen from my appeal decisions, I concurred with the Council's assessment and have dismissed the appeals accordingly.
7. Awards of costs relate to expenses incurred in the appeal process and do not extend to compensation for indirect losses such as might be incurred due to delays in obtaining planning permission. Therefore, even if I had allowed the appeals, indirect costs such as might be associated with a delay in construction would fall outside of any award of costs.
8. In both cases, the applicant exercised a right of appeal but planning permissions were not unjustifiably withheld given the harm that I have found. The parties are expected to meet their own costs in the appeal process. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.
9. Therefore, both the applications for award of costs are refused.

Sarah Manchester

INSPECTOR