



Costs Decision

Site visit made on 20 September 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 6th November 2019

Costs application in relation to Appeal Ref: APP/T5150/W/19/3230991 49 Brook Road, London NW2 7BN

- 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 Peter McAndrew for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was against the refusal of planning permission for demolition of dwellinghouse and erection of a two storey building with converted loft space to provide 4 self contained flats (1 x studio, 1 x 1 bed, 1 x 2 bed and 1 x 3 bed), creation of amenity space, cycle and refuse storage and associated landscaping without complying with a condition attached to planning permission Ref 18/0866, dated 17 May 2018 (the planning permission).
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Decision

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

Reasons

2. The Planning Practice Guidance 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.

Policy DMP17

3. The applicant says that the existing dwelling is not considered to be large enough under Policy DMP17 of the London Borough of Brent Local Plan Development Management Policies (2006) (LP) to provide a family-sized unit, and that it is unreasonable for the Council to necessitate that a 3-bedroomed unit is provided within any alternative use of the site.
4. The above is, however, a misinterpretation of the Policy which identifies circumstances in which the loss of family-sized housing is likely to be acceptable. That is, the conversion of larger dwellings which might be able to be converted to more than one dwelling, with at least one 3-bedroom dwelling retained. The Policy does not allow for the conversion of family-sized homes of less than 130 square metres which would result in the loss of the family-sized unit. Accordingly, notwithstanding that the proposal is for demolition and re-build rather than conversion, the Council has not behaved unreasonably in refusing the proposal in seeking to maintain family-sized accommodation under the LP.

Materiality

5. The applicant says that the Council should have declined to validate the s73 application¹ and instead should have invited him to submit a full fresh planning application rather than to refuse it subsequently on the basis that the proposal did not constitute a minor material amendment to the planning permission.
6. It appears from the officer report that the materiality of the proposal was analysed during the detailed planning assessment in conjunction with the issue of the retention of family-sized accommodation, which was an integral part of the decision as to materiality. Therefore, it was not unreasonable for consideration of that issue post-validation.

Conclusion

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

Andrew Walker

INSPECTOR

¹ Section 73 of the Town and Country Planning Act 1990, as amended.