



Costs Decision

Site visit made on 29 October 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2019

Costs application in relation to Appeal Ref: APP/P4605/W/19/3233732 1a & 1 St Annes Close, Handsworth Wood, West Midlands B20 1BS

- 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 K Singh for a full award of costs against Birmingham City Council.
 - The appeal was against the refusal of planning permission for change of use from single dwelling into two dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party which has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant states that the application was submitted following pre-application advice. However, such advice is given without prejudice to the formal decision of the Council. Furthermore, in the absence of details as to the specific advice which the appellant refers to, I cannot be certain that the Council indicated that it was likely to view the proposal favourably at that stage in any event. Given the nature of the Council's objections as set out in its reason for refusal, I am not convinced that those concerns could have been overcome had further discussion taken place during the course of the application. Therefore, the Council's actions have not led to an appeal which could otherwise have been avoided, and do not amount to unreasonable behaviour in the terms of the PPG.
4. The appellant refers to the Council having made vague, generalised or inaccurate assertions about the proposed impact which are unsupported by any objective analysis. However, the Council has clearly articulated its concerns regarding the proposal and the alterations proposed, including with reference to the appearance of the proposed dwelling compared with other existing dwellings nearby and to relevant development plan policy, and it is clear from the evidence before me why and how the Council reached the conclusions it did. Whilst I have reached a different conclusion to the Council on those matters, I am nonetheless satisfied that the Council has clearly substantiated its reason for refusal, and that it did not behave unreasonably in reaching the conclusions it did, as a matter of planning judgement.

5. The appellant asserts that the Council has prevented a legitimate development where there have been recent approvals nearby. However, the appellant has not identified or provided details of any recent approvals relating to schemes which are similar or comparable to the current proposal to convert a single extended dwelling into two separate properties. Therefore, I have no reason to believe that the Council has behaved inconsistently in its determination of this application compared to any directly comparable schemes, and I conclude that it has not behaved unreasonably in that regard.
6. The appellant has made reference to guidance in the PPG which states that local planning authorities may be at risk of an award of costs for refusing planning permission on a planning ground capable of being dealt with by conditions. The Council has stated that, in its view, there were no conditions which would have made the development acceptable. The appellant has not provided any detail or suggestion as to any specific conditions it considers could have been attached which would have overcome the Council's objections to the proposal. Therefore, and given the nature of the Council's objections, I have no reason to believe that those concerns could have been overcome by conditions in this case. I therefore conclude that the Council has not behaved unreasonably in that regard.
7. For the reasons given, I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated. An award for costs is therefore not justified.

Jillian Rann
INSPECTOR