
Costs Decision

Site visit made on 16 October 2019

by Neil Smith BA Hons BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2019

Costs application in relation to Appeal Ref: APP/Q5300/W/19/3233504 26 Harlech Road, Southgate N14 7BX

- 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 J A Scarou 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 the extension of existing basement level and lightwell at front to create a treatment room.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Paragraph 30 of the National Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant submits that the Council has acted unreasonably by refusing a householder planning application, because it failed to have regard to its decision to approve a very similar development at the immediately adjoining property. The applicant also states that there have been no material changes in site circumstances or planning policy since the date of that planning permission in 2016.
4. The Council argue that the permission at the neighbouring property was granted over three years ago and that each case is determined on its own merits. The Council also contend that since the determination of the previous application, the National Planning Policy Framework (the Framework) has been updated and that the application had a critical failing in that it was not accompanied by a heritage statement.
5. The application was validated as complete and further correspondence took place with the applicant on 6 June 2019, which solely related to the use of the basement and at no time was there a request for a heritage statement. Whilst each application is determined on its own merits, I note from the Officer report that the Council were aware of the existence of the planning permission for a similar proposal at the adjacent property, No 24, which I have found as a material consideration that weighs in favour of the appeal proposal. I can find no explanation of how the circumstances of that decision materially differ from

the appeal proposal. Equally, I can find no reason why the Council failed to take this decision into account in its decision, not least in terms of the need for consistency in decision-making.

6. Whilst the Framework was updated, in this instance it has not changed the policies within the adopted development plan in relation to the determination of the application.
7. Having regard to the provisions of the development plan, national planning policy and other material considerations, I have concluded that the effect of the appeal proposal was deemed to be acceptable when assessed against policy. Therefore, the development should reasonably have been permitted. I do not consider the Council to have provided sufficiently robust evidence to substantiate their findings that the proposal would result in a harmful form of development when viewed from the public realm and would be to the detriment of the Lakes Estate Conservation Area. The refusal of planning permission therefore constitutes unreasonable behaviour, and this has resulted in wasted or unnecessary costs to arise for the Applicant in having to address the reasons for refusal.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated and that an award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the London Borough of Enfield shall pay to Mr J A Scarou, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to the London Borough of Enfield, whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Neil Smith

INSPECTOR