



Costs Decision

Site visit made on 30 September 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2019

Costs application in relation to Appeal Ref: APP/N1920/W/19/3233010 Fir Spring Cottage, The Pathway, Radlett WD7 8JB

- 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 V and Dr R Cohen for a full award of costs against Hertsmere Borough Council.
 - The appeal was against the refusal of the Council to grant subject to conditions of planning permission for 'demolition of existing detached garage and erection of 2 storey, detached, 3 bed dwelling adjacent to main house, (amended plan to include access rd, received 11.05.17, and highway assessment received 10.10.17) without complying with a condition attached to planning permission Ref 17/0545/FUL, dated 19 March 2018.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The application essentially relies on two matters;
 - That the reasons for refusing the application did not relate to the development applied for.
 - The description of the development was amended by the Council without agreement.
4. On the first matter, it will be seen from my decision that I do not agree with the Council. I have concluded that the proposed cinema should not be considered to be a habitable room for the purposes of parking provision as there are no windows. Accordingly, I have found that there would be no demonstrable harm to the highway network, the safe flow of traffic or pedestrian safety.
5. However, the decision is one of planning judgement and the Council have substantiated their case on the basis of The Hertsmere Local Plan Parking Standards Supplementary Planning Document (2014), which sets out criteria for assessing residential parking standards. This was not an unreasonable

approach to take. Thus, I consider that the Council were entitled to come to the view they did, notwithstanding that I have come to another.

6. With regard to the second matter, the application included plans that clearly indicated the intended layout of the loft space with the creation of a study and cinema. A further plan was submitted to demonstrate that a third parking space could be provided on site to reflect the roof light over the study. It will be seen from my decision that I have also had regard to this revised layout in my decision.
7. I acknowledge that the Highways Authority did not raise any objection to the proposal. Nonetheless, whilst the Council will have regard to the advice received from their consultees, they are entitled to consider an application on the basis of the evidence before them.
8. As a result, it follows that I cannot agree that the decision was flawed or that the Council has acted unreasonably on either matter in this case. No award of costs is therefore made.

Hilary Orr

INSPECTOR