
Costs Decision

Site visit made on 12 November 2019

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th November 2019

Costs application in relation to Appeal Ref: APP/B5480/W/19/3236937 15 Mildmay Road, Romford RM7 7DA

- 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 Ronnie Hollington for a full award of costs against the Council of the London Borough of Havering.
 - The appeal was against the refusal of planning permission for the change of use and conversion from shop unit to one flat dwelling, addition of small rear bay window.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (the PPG) advises that costs may be awarded where a party has behaved unreasonably, and where that behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant states that the Council has acted unreasonably by failing to consider the effect of the tilted balance found in paragraph 11 of the National Planning Policy Framework (the Framework), particularly in light of their submissions, including commentary on housing land supply and the changes made to the proposal as a result of the previous application. The applicant has also drawn my attention to the decision and costs decision of the Inspector for a previous appeal on this site.¹
4. In their appeal, the applicant addressed both the reasons for refusal of the application itself and the relationship of these to the conclusions of the Inspector in the previous appeal, with extensive reference to the decision itself. Given the chronology, I consider that it was reasonable for the Council to determine the application as they did, having regard to their assessment of the proposal against their development plan. Their failure to address the submissions of the applicant on the sufficiency of their supply of deliverable housing sites during the application was unfortunate. However, their decision was founded on their development plan, which remains the starting point for decision making and predated the decision (and costs decision) of the Inspector in the previous appeal.

¹ Appeal Decision and Costs Decision APP/B5480/W/19/3220714

5. In contrast to the previous appeal, the Council disputed the evidence of the appellant regarding the sufficiency of their supply of deliverable housing sites and was not silent on this point during the appeal. In addition, it is clear from their appeal submissions that even if the Council accepted that their supply of deliverable housing sites was insufficient, they did not consider that the proposal would succeed against the test in paragraph 11d of the Framework and as the appeal proposal concerns a single unit, this conclusion would not in itself be unreasonable.
6. I do not agree with the suggestion of the applicant that the Council refused planning permission on grounds capable of being dealt with by conditions. The Council's decision on the application was founded on their assessment that the proposal conflicted with the development plan. Notwithstanding my conclusion that it does not, that was a reasonable course of action for the Council to take.
7. Regarding the lack of co-operation, in my opinion the Council has exercised its duty to determine this planning application and defend the appeal in a reasonable manner, exercising its duty to assess proposals against, and ultimately determine planning applications in line with the development plan unless material considerations indicate a decision should be taken otherwise.

Conclusion

8. I therefore find that the Council has not demonstrated any behaviour which could be considered unreasonable in procedural or substantive terms, and which then resulted in unnecessary or wasted expense.

S Dean

INSPECTOR