



Costs Decision

Site visit made on 7 October 2019

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 21 November 2019

Costs application in relation to Appeal Ref: APP/M5450/W/19/3233386 416 Eastcote Lane, South Harrow, Harrow HA2 9AL

- 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 Choudhury for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for conversion of dwelling into two flats (1 X 2 Bed and 1 X 1 Bed); Bin and cycle stores.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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.
3. The application for a full award of costs is on the basis that the Council has acted unreasonable in relation to issues arising from the merits of the appeal. This includes misdirecting itself as to what should be included as the Gross Internal Area (GIA) of the first floor flat and the view that it was of insufficient size. The applicant suggests that conditions could overcome the concern about internal walls.
4. The applicant also contends that the proposal the subject of the appeal, at issue was preceded by changes to a previous proposal. In this case the applicant sought pre application advice and this advice has resulted in the application being refused. The applicant suggests that they had a legitimate expectation that if the previous case officer's advice was to be set aside then this would have been communicated to him when the appeal application was assessed in order to resolve issues. The applicant concludes that the Council has acted unreasonably and failed to follow good practice, both in terms of timeliness and in the presentation of evidence to support their case.
5. The Council has responded in relation to withdrawal of the previous application and in respect of the suggested conditions put forward by the applicant and I have no reason to conclude that the actions of the Council in these matters amounts to unreasonable behaviour.
6. However, it can be seen from my decision that I do not agree with the Council in their assessment of the GIA and how this was carried out against the

guidance set out in the Technical housing standards – nationally described space standard as well as development plan policies including the London Plan 2016 and against the National Planning Policy Framework, 2019 (The Framework). While this is expanded upon in the appeal evidence, I find the Council's assertions of the bedroom space and occupancy, to be profoundly irrational and subjective. The proposed development was clearly for a 1 bedroom / 1 person flat on the first floor and this was indicated on the application form and proposed plans including the GIA.

7. Therefore, I find that having regard to the provisions of the development plan, national planning policy and other material considerations, the development proposed should reasonably have been permitted. The refusal of planning permission by inaccurate assertions about the proposal's impact constitutes unreasonable behaviour contrary to the basic guidance in the Framework and the PPG¹. As a direct result, the appellant has been faced with the unnecessary expense of lodging the appeal.
8. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full 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 Council of the London Borough of Harrow shall pay to Mr Choudhury, the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to the Council of the London Borough of Harrow, to whom 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.

K A Taylor

INSPECTOR

¹ Paragraph: 049 Reference ID: 16-049-20140306: Planning Practice Guidance