
Costs Decision

Site visit made on 24 September 2019

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2019

Costs application in relation to Appeal Ref: APP/U5930/W/19/3229507 178 Waltham Way, Chingford E4 8AZ

- 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 Mrs Achileos for a full award of costs against the Council of the London Borough of Waltham Forest.
 - The appeal was against the refusal of planning permission for construction of 1 x 2bed 3 person home to the side of 178 Waltham Way.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and where the unreasonable behaviour has directly caused unnecessary or wasted expense in the appeal process.
3. It goes on to explain that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to procedural matters or to the substance of the matter under appeal. Examples given of unreasonable behaviour include a failure to produce evidence to substantiate each reason for refusal; making vague, generalised or inaccurate assertions about a proposal's impact, unsupported by any objective analysis; and preventing or delaying development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations.
4. The parties disagree over the quantum of amenity space that would be available to serve occupiers of the site. In relation to the proposed dwelling, it seems from the evidence before me that the difference arises as a consequence of the applicant including land to the side of the dwelling which the Council do not take account of in their measurement. The width of this space would significantly limit its function as amenity space and in light of the requirement within Policy DMP 7 of the Waltham Forest Local Plan Development Management Policies 2013 that external amenity space should not be awkwardly shaped or very narrow, it was not unreasonable for the Council to discount this area.
5. The Council's evidence also shows that part of the garden intended to serve 178 Waltham Way was not taken into account. While the Council suggest that a fence/border would limit access to this section of garden, the proposed block plan and proposed floor plans do not show any formal division here and I see

no justification to discount this area. However, although this may amount to unreasonable behaviour, it has not been argued that this led to any wasted expense in preparing for the appeal. The Council's concern over the provision of space to serve the proposed dwelling was justified in light of the standards within the development plan, and the applicant's response in relation to the measurement of the amenity space for both the existing and proposed dwellings was straightforward and has not involved anything beyond a short rebuttal. In effect, the applicant has quickly and easily rebutted the Council's position on the amount of space to serve future occupiers of No. 178 without wasting expenditure.

6. While dealt with relatively briefly in the Council's report on the application and subsequent submissions, the basis for the concerns relating to the internal layout and external access arrangements for the proposed dwelling are nevertheless clear. The reasons for refusal are complete, precise and specific and relevant to the application and refer to relevant development plan policies which require provision of high quality internal space for dwellings. Notwithstanding that my decision makes it clear that I do not agree with the Council on this matter, I find that the Council had reasonable concerns about the impact of the proposed development which justified its decision, and this does not constitute unreasonable behaviour.
7. I note that the Council's response to the costs application refers to compliance with some technical details of the London Housing Design Guide which were not previously raised in either the officer's report or the appeal statement. However, this is a brief comment rather than substantial new evidence and has not necessitated any detailed response from the applicant. Accordingly, it has not been demonstrated that this has resulted in wasted expense.
8. The applicant put forward other nearby development as examples in support of the proposal at both application and appeal stage. While my conclusion on the overall impact of the development on the area taking into account some of these examples differs from the Council's, none are a direct parallel to the appeal proposal and the Council's evidence explains the reasons for its view that these were not directly comparable.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Consequently, for the reasons given above, the application for a full award of costs is refused.

J Bowyer

INSPECTOR