



Costs Decision

Site visit made on 16 September 2019

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2019

Costs application in relation to Appeal Ref: APP/Q5300/W/19/3233153 Land Rear Of 74 Broad Walk, London N21 3BX

- 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 Waldron Properties Ltd for a partial award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for the erection of 2 x 2-storey, 4-bedroom semi-detached dwellings, provision of landscaping, access and parking.
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant has sought costs in relation to the Council's behaviour in dealing with matters relating to: the design of the proposed development; provision for sustainable drainage (SuDS) to ensure safety from flooding and; treatment of a street tree.
4. In relation to matters concerning design (the first two reasons for refusal), I note the differences between the parties concern varying views on the attributes of the proposed development, interpretation of feedback from the Council and communication and discussion over those concerns. However, I do not find that the Council acted unreasonably in the processing and determination of the application in a timely fashion.
5. On the question of sustainable drainage, while I note that the SuDS team did not have access to all of the submissions prior to determination of the planning application, it is clear from the comments in an email dated 19 July 2019 that the team felt that the information submitted did not include an acceptable detailed drainage strategy to address the concerns. The Council also recognised it is possible to deal with such matters by way of condition. Although that is not the preferred way of dealing with such issues this is the course I follow on my appeal decision. It appears to me, however, that no substantive additional technical work has actually been undertaken as part of the appeal process. I also note that the email to the drainage team dated 18 July 2019 was based on the premise of seeking feedback for a subsequent planning application rather

than as part of the appeal process. Accordingly, I do not find the Council has acted unreasonably in relation to drainage matters.

6. The potential impact on the recently planted highway street tree was raised in the officer's report as was the Council Highway policy not to remove trees for highway crossovers. However, the officer's report also recognised that, "There may be scope to transplant the tree, however, at the time of writing, this had not been confirmed and on that basis, there is an objection to the loss of this tree". The appellants appear to show the tree retained in its current position on the proposed site plan (Ref: BW-11 Rev B) but then submitted further evidence as part of their final comments (mistakenly referring to reason 6 instead of reason 4 of the Decision Notice) suggesting that the tree should be transplanted. On this basis I do not agree that the Council has acted unreasonably. The matter can be resolved by way of the condition I have included in my appeal decision.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

David Carter

INSPECTOR