



Costs Decision

Site visit made on 2 December 2019

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 December 2019

Costs application in relation to Appeal Ref: APP/L5810/W/19/3237418 216 Hampton Road, Twickenham TW2 5NJ

- 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 Dinesh Bhatt of The Letter Press for a full award of costs against the Council of the London Borough of Richmond-upon-Thames.
 - The appeal was against the refusal of planning permission for internal alterations to provide accessible accommodation at the ground floor level of live/work unit. Employment use as printers/graphic design business to be retained. Partial demolition of part of ground floor extension to provide courtyard garden.
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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 states that the main reason for the proposal is the adjustment for a disabled person who lives at the property. As can be seen from my Appeal Decision this matter is a determinative factor in the appeal. However, whilst general reference to this issue has been made in support of the application and appeal, substantive evidence was only provided by the appellant late in the appeal process. As the appellant had identified this issue then the appellant has a responsibility to provide appropriate evidence in a timely manner. Due to the late submission of the substantive evidence I consider that the Council has not behaved unreasonably in its consideration of this particular issue.
4. The Council's second reason for refusal relates to a lack of evidence in respect of carbon reduction measures. However, if the Council was aware that this is a substantive issue raised by the proposal then it would have been appropriate to raise this at the validation stage. Whilst the Council's acknowledgement letter indicates that if there is a substantial objection to a proposal then a refusal notice may be sent without prior contact, the evidence suggests that the appellant's agent contacted the Council on a number of occasions where this matter could have been raised and addressed. Within this context, I consider that the Council has behaved unreasonably in not raising the issue with the appellant.

5. However, I am not persuaded that if the matter of carbon reduction measures had been raised then this would have avoided the refusal of the application and subsequent appeal. This is due to the identified conflict with the development plan on the loss of employment floorspace and the initial lack of substantive evidence on the personal circumstances of the appellant's family. Furthermore, the appellant's response on the matter of carbon reduction is straightforward and has only involved a short rebuttal. It seems to me that in reality there has been so little extra work in responding on this matter that it can be regarded as 'de minimis'. The appellants have been able to quickly and easily respond on this specific element of the Council's decision without wasting expenditure.
6. The appellant states that no site visit was made, although the Council confirms that a site visit was made to the property and the general area. Whilst a Council officer may not have entered the property, I consider that the details submitted with the application would allow the Council to assess the proposal without entering the site.
7. With regards to the validation process, the clarifications and evidence requested by the Council were appropriate based on the description of the development and planning policy. The Council has therefore not behaved unreasonably in this regard.
8. The appellant refers to the disagreement as to the use class of the business use. However, as can be seen from my Appeal Decision the specific business use class is not a determinative factor in this appeal and the Council has therefore not behaved unreasonably in its approach to the loss of employment floorspace.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

David Cross

INSPECTOR