



Costs Decision

Site visit made on 25 October 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2020

Costs application in relation to Appeal Ref: APP/A5270/W/19/3233885 Greystoke Court, Hanger Lane, Ealing W5 1EN

- 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 Ray Green for a full award of costs against the Council of the London Borough of Ealing.
 - The appeal was against the refusal of planning permission for what was described on the planning application form as construction of a 5th floor to create 5 self-contained flats (1 x studio, 2x1 bed, 1x2 bed and 1x3 bed) with associated terraces and balconies and alterations to the parking layout on site to provide 5 extra parking spaces.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. The applicant considers that the Council acted unreasonably in refusing the application. This is in relation to substantive matters regarding the planning merits of the appeal.
3. A similar development to the appeal proposal was previously granted planning permission by the Council. It has been put to me that there have been no material changes in circumstance since then. However, the evidence before me indicates that that planning permission was quashed following a legal challenge. Although the challenge related to procedural matters, that permission was nevertheless quashed and is therefore not extant. Accordingly, it does not indicate that the appeal proposal should have been approved by the Council nor is it determinative as to the acceptability of the appeal proposal.
4. The Council's assessment of the effect of the proposed development on the living conditions of adjoining occupiers may not have involved purely objective, technical matters. However, its Officer Report deliberates and details the alleged harm, and it does not appear to be particularly vague, generalised or inaccurate. The Council's Decision Notice also sets out a clear, complete refusal reason based on conflict with the development plan.
5. The Council is not required to follow the advice of its Officers or consultees so long as a case can be made for the contrary view. In this instance, although the Highway Authority did not object, it did raise some matters and their comments on the proposed development were not entirely supportive. The Council's Officer Report is somewhat brief in its consideration of highway

matters. However, it is clear from the reasoning in my appeal decision that the proposed development does involve various highway-related matters which are not so obviously acceptable so as to indicate that the Council's second reason for refusal was unreasonable. As set out above, the Council's previous quashed decision is also not determinative as to the acceptability of the appeal proposal in relation to highway matters.

6. I have come to a different conclusion to the Council and have allowed the appeal. However, this does not mean that the Council acted unreasonably in refusing the planning application. Nor does it indicate that all aspects of the alleged harm could have been addressed through planning conditions. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Tobias Gethin

INSPECTOR