



Costs Decision

Site visit made on 27 January 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th March 2020

Costs application in relation to Appeal Ref: APP/H5390/W/19/3241237 82 Old Oak Common Lane, London W3 7DA

- 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 Richard Elms (R. G. Elms and Sons Ltd) for a full award of costs against the Council of the London Borough of Hammersmith & Fulham.
 - The appeal was against the refusal of planning permission for the demolition of the existing building apart from the ground floor level facade, currently in use as a betting shop and ancillary accommodation (*Sui Generis*); erection of a three storey building incorporating the retained facade with 2.3M increase in building height for use as a betting shop (*Sui Generis*) on the ground floor and two residential units at first and second floor levels (Class C3) with metal staircase to the rear and obscure glass screens to the northern boundary.
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Decision

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

Reasons

2. The *Planning Practice Guide* (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals, and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process.
3. The application for an award of costs relates mainly to concerns the applicant has with how the Council handled both the formal pre-application process and the planning application itself. These concerns include the length of time to provide the pre-application advice, issues with site meetings, the lack of dialogue during both processes including in relation to consultation responses and the inconsistency between the pre-application advice and the reasons for refusal.
4. I appreciate the applicant's frustration with this and the difficulties they caused. However, none of these are matters that directly affected the Council's formal decision on the application, and so are not matters that led to the necessity for the appeal. Moreover, pre-application advice is only the informal view of an officer and does not represent the formal opinion of the Council.
5. The application had two reasons for refusal, one relating to the impact the proposal would have on the character and appearance of the conservation area, and the other regarding the living conditions for future occupiers of the residential accommodation. These both relate to the proposed development

and deal with issues that need to be addressed in considering the appeal scheme. Both these reasons for refusal also indicate the policies within the development plan to which the Council considered the scheme would be contrary. As such, these issues represent proper planning grounds.

6. The applicant has highlighted that the reason for refusal relating to the living conditions of future occupiers was unexpected in that the Council's concerns in this regard had previously been with respect to outlook. Whilst this is unfortunate, ensuring that the proposed development would provide adequate living conditions for future occupiers is a matter that needs to be addressed when considering the scheme.
7. As set out in my appeal decision, I consider that this is a matter which could have been dealt with by way of a condition to ensure that adequate acoustic insulation was provided. However, the applicant has not claimed costs on this ground, and I must deal with the cost application on the grounds as applied for. As highlighted above, whilst it is unfortunate that this reason was unexpected, it is a proper planning ground.
8. Thus, I am satisfied that the Council has met its obligation to give proper consideration to the planning application. Therefore, I find that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

Alison Partington

INSPECTOR