



Costs Decision

Site visit made on 7 January 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2020

Costs application in relation to Appeal Ref: APP/J1535/W/19/3238567 46 Stradbroke Drive, Chigwell IG7 5QZ

- 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 Robert Davis, Imperial Developments for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for development described as 'sub-division of the second floor flat to 2 flats of extant decision application ref: EPF/0973/17 raising number of flats from 5 to 6'.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 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 Council refused planning permission for reasons relating to the effect of the proposed development on the living conditions of neighbouring occupiers and the provision for parking. These are matters of planning judgement, and from the information before me I have no reason to find that the Council behaved unreasonably in refusing permission on those grounds. The appeal could not therefore have been avoided.
5. The effect of the proposed development on the Epping Forest Special Area of Conservation (SAC) did not form a reason for the Council's refusal of the application. It was later raised as an objection to the proposal as part of the Council's appeal evidence. However, the Council have explained the reasons for the change in approach between the determination of the application and the appeal stage, and the reasons why the effect of the proposal on the SAC is now held to be unacceptable.

6. In light of this explanation and the statutory protection given to the Epping Forest SAC under the Conservation of Habitats and Species Regulations 2017, I do not find it unreasonable for the Council to have highlighted this matter as relevant to consideration of the appeal, and I find that it was necessary for the applicant to address this matter in addition to the Council's reasons for refusal of permission as part of the appeal.
7. I acknowledge the applicant's frustration that there is currently no agreed mitigation strategy in this area to address air quality impacts of development on the SAC. However, I note that securing such a strategy is dependent on the outcome of the examination of the emerging Local Plan Submission Version 2017 (LPSV) which is ongoing. While there may have been delays to the progress of the LPSV, from the evidence before me I have no reason to find that this amounts to unreasonable behaviour by the Council.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, for the reasons given above, the application for a full award of costs is refused.

J Bowyer

INSPECTOR