
Costs Decision

Site visit made on 12 February 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th March 2020

Costs application in relation to Appeal Ref: APP/H1515/W/19/3241377 To the rear of 12 Worrin Road, Shenfield, Brentwood, Essex, CM15 8DE

- 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 David Longhurst for a full award of costs against Brentwood Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a detached house and garage.
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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 failure to produce evidence to substantiate each reason for refusal on appeal, and making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by objective analysis.
4. As part of the appeal, the applicant submitted additional documents and information which were not part of the original application¹. The Council's appeal statement of case dated 16 January 2020 did not refer specifically to the updated arboricultural information, and the response provided to the applicant's transport and noise information is limited to a brief comment that screening should not be considered a permanent or effective sound barrier.
5. Given that the additional information was not before the Council at the time of their decision, I do not find that it was unreasonable for the Council to have made a planning judgement about the effect of the development on the living conditions of neighbouring occupiers through noise and disturbance. In addition, the assessment of the effect of a development on the character and appearance of an area is subjective, and it was not unreasonable for the

¹ Transport Technical Note (Ref DALO/19/5053/TN01 dated October 2019), Noise Impact Assessment (Ref 9705.LE01.0 dated 10 October 2019), Arboricultural Impact Assessment & Method Statement (Ref PR119350ala-ams appeal dated 15 November 2019), and Arboricultural Appeal Statement (dated 15th November 2019)

Council to have taken account of the effect of the proposal on trees as part of this assessment. The reasons for refusal given on the decision notice for the application provide for a clear explanation of why the Council found the development to be unacceptable in these regards, concluding against planning policy. Consequently, these are matters that the applicant would have needed to address as part of the appeal.

6. While it would have been helpful for the Council to have responded more fully to the content of the additional information provided by the applicant at appeal stage, there is no requirement for the Council to have consulted an Environmental Health Officer or Arboriculture Officer to inform their response.
7. In any event, the applicant's response to the Council's appeal evidence was straightforward and has not involved anything beyond a short rebuttal. It has not therefore been demonstrated that the Council's limited response to the additional appeal information has resulted in the applicant incurring unnecessary or wasted expense.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Consequently, for the reasons given above, the application for a full award of costs is refused.

J Bowyer

INSPECTOR