
Costs Decision

Site visit made on 11 February 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2020

Costs application in relation to Appeal Ref: APP/E5330/W/19/3241388 Bentham House, 2-4 Station Way, Woolwich, London SE18 6FJ

- 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 Arthur Kwame for a full award of costs against Royal Borough of Greenwich Council.
 - The appeal was against the refusal of planning permission for a development that was originally described as "Change of use of ground floor of a property at Bentham House, 2-4 Station Way from A1 (Use Class) to A3 (Restaurants and Café) with mezzanine floor and extraction unit."
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant states that the appeal was unnecessary as the concerns raised by the council could have been resolved if the council had contacted the applicant prior to the determination of the application and arranged to see the existing bin stores within the building complex that the appeal site is part of. The applicant also states that the concerns of the Council could have been resolved through the use of conditions and that the Council has acted inconsistently and unfairly by not imposing conditions that have been attached to permissions at other sites.
4. Planning Practice Guidance¹ states that the acceptance of changes to an application is at the discretion of the Local Planning Authority. In this context, whilst the Council is not obliged to seek further information after the submission of an application, both parties have identified that additional information was submitted after the application was validated. The Council's Delegated Report indicates that this information was duly considered and, therefore, the Council's actions appear to be in line with the content of the Planning Practice Guidance.
5. In addition, as an application should be accompanied with all details necessary to enable an application to be determined, I do not find that the onus should be on the Council to arrange a site visit in order to address a shortcoming of the

¹ Paragraph: 061 Reference ID: 14-061-20140306

submissions. Besides, given my findings set out in my Appeal Decision with regard to this matter, I am not convinced that sight of the existing bin stores would have altered or resolved the Council's concerns.

6. The Council's Delegated Report indicates that regard was had to the potential use of conditions, but the Council were not satisfied that such conditions would pass the tests that are set out at paragraph 55 of the National Planning Policy Framework. For the reasons set out in the appeal decision, although not for wholly the same reason as the Council, I have also concluded that planning conditions could not be imposed to address the grounds of objection that were raised. Accordingly, the approach taken by the Council towards the use of conditions was not unreasonable.
7. All proposals are required to be considered on their own planning merits with any conditions being tailored to reflect the nature of the proposals and the circumstances of a site. Therefore, whilst the Council may have been able to address similar matters at other sites through the use of conditions, it does not follow that this approach is appropriate for all such development. I therefore find that it was not unfair or inconsistent of the Council to conclude that conditions could not be imposed to address their objections.
8. Accordingly, I do not consider that the actions of the Council were inconsistent or unfair. I have found that the Council had reasonable concerns about the impact of the proposed development and the ability to use conditions which justified its decision. The Council's actions did not, therefore, lead to the submission of an appeal that could have otherwise been avoided

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.

Ian Harrison

INSPECTOR