
Costs Decision

Site visit made on 1 October 2019

by Roy Curnow MA BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2020

Costs application in relation to Appeal Ref: APP/M5450/W/19/3222326 56A Bridge Street, Pinner HA5 3JF

- 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 Frank Melia for a partial award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for the erection of first floor extension and creation of second floor to provide two flats, bin stores, cycle provision and external alterations.
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The appellant seeks an award of costs in relation to refusal reasons (RRs) 1, 4, 5 and 6 in the Council's decision.
4. With reference to RR1, the appellant alleges that the Council relied upon its earlier reason for refusal without taking recent developments into account, which were material considerations. The Council's arguments in regard of this reason were generalised or inaccurate.
5. Similar arguments are put forward with regards to the claim for costs in relation to RRs 4, 5 and 6. Given that the appeal proposal was the re-submission of an earlier refused scheme, it was unreasonable of the Council to raise the issue of the refuse facilities in RR4, as this had not been raised in a decision on an earlier similar application on the site. The matter in RR5, cycle and disabled parking, was also not mentioned in that earlier decision and could have been controlled by condition. It arose from reliance on a vague assertion from the highway authority. RR6, which relates to highway safety was again not mentioned in the earlier decision. Notwithstanding that this might have been an administrative error, insufficient evidence has been put forward to substantiate this matter.

6. The above, it is argued, amount to unreasonable behaviour contrary to the guidance in the PPG¹ and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, as amended.
7. The Council made no response to the claim.
8. The Council did not make reference to other developments, including the approved development on the Waxwell Car Park and that built to the rear of buildings on the opposite side of Bridge Street in its Officer report. However, the Council did put forward substantive arguments in support of its contention that the proposed development would have an adverse effect on the character and appearance of the area. I agreed with much of what it put forward and found this sufficient to justify its reason for refusal. Thus, I do not find that the lack of reference to other developments in the area, which I took into account in making my decision, amounted to unreasonable behaviour in relation to RR1.
9. It is accepted practice that each planning application should be assessed on its individual merits, in the light of the terms of the development plan and other material considerations. Thus, each decision stands alone. It is not unreasonable for the Council to introduce reasons for refusal that were not included in earlier decisions.
10. It is, however, incumbent upon it to substantiate these in the manner set out in the PPG. A failure to do so could result in the award of costs against it. Thus, RR4, which I upheld, was used reasonably despite not having been included within the earlier refusal.
11. However, the requirement to substantiate each reason for refusal should not be equated with a requirement for each reason for refusal to be upheld at appeal. Here, though I did not uphold RRs 5 and 6, I found that each was supported by reasoning that met the 'tests' in the PPG. Although the appellant found the advice given by the highway authority to amount to a vague assertion, this was not the case with the Council's appeal case. Although this was a matter that might have been addressed through the use of a condition, as the Council did not have the required information it was not unreasonable for it to be included as a reason for refusal.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the applicant's claim for costs fails.

Roy Curnow

INSPECTOR

¹ Paragraphs 033 and 047