
Costs Decision

Site visit made on 29 January 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2020

Costs application in relation to Appeal Ref: APP/M5450/W/19/3241259 Garages to the rear of Letchford House, Headstone Lane, Harrow, HA3 6PE

- 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 A Surace for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for demolition of the existing garages and replacement with a single storey house with basement.
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Decision

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

Reasons

2. Planning Practice Guidance ("PPG") advises that parties in planning appeals and other planning proceedings normally meet their own expenses. However, 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.
3. In this case the Council were delayed in submitting the appeal questionnaire. No statement of case or rebuttal to the appellants statement was provided. The list of suggested conditions were also provided outside of the appeal timetable.
4. In relation to the procedural issues cited above, the Council ultimately provided the Planning Inspectorate with the relevant information necessary for the appeal to proceed. Whilst inconvenient for the applicant, the Council's actions did not significantly hold up the processing of the appeal or create significant amounts of additional work. It did not act unreasonably in this respect.
5. In terms of the substantive planning issues, the Council are under no formal obligation to respond to the applicant's grounds of appeal or any additional information submitted in support of its case. In this case it had provided an officer report which sets out the rationale behind each reason for refusal. The appellant was aware of this report and refers to it in their grounds of appeal. In these circumstances, the lack of an appeal statement does not in itself amount to unreasonable behaviour on the part of the Council.
6. With regard to the first reason for refusal, the Council argued that the proposal involved an unacceptable subdivision of the site, given the listed status of Letchford House. It acknowledges in the officer report that the subject land is already in independent use, by virtue of a lawful development certificate issued in relation to the existing use of the buildings on the site.

7. However, further into the report it sets out concerns about the subdivision of the front garden via the creation of a bespoke access drive to the proposed development. It can be reasonably deduced from this that the Council's concern was that the extent of existing subdivision would be intensified, alongside the other issues identified in relation to the effect on the setting of the listed building.
8. These concerns relate to material planning issues. As a matter of fact, there would be a further subdivision of the front garden of the main property, and there would also be an increase in building height over the existing situation, and all of this would have some effect on the setting of the listed building. Whilst I ultimately found that the effect was acceptable in the planning appeal decision, the Council did not act unreasonably in raising these issues.
9. The Council also explained the basis for reasons 2, 3 and 4 in the officer report, identifying the planning issues involved and explaining the alleged conflict with the development plan. In each case the appellant responded by advancing planning arguments in favour of the scheme. I found in favour of the applicant on all these points in the planning appeal decision, taking in to account all the points raised. However, this is how the planning appeals process is supposed to work. The Council provided a clear justification for each reason for refusal in the officer report, explaining the planning judgements involved and alleged conflict with the development plan. It did not act unreasonably in relation to any of these matters.
10. Finally, on the fifth reason for refusal the Council correctly identified an issue (flood risk) which requires significant additional work and potential amendments to the scheme in order to address. The appellant does not dispute that the site partially falls within an area of flood risk. The appeal decision makes clear that the risk of harm on this issue is of a magnitude that justifies the refusal of planning permission.
11. The Council were under no formal obligation to engage on this matter prior to issuing a decision. They must adhere to statutory deadlines for decision making and seeking changes to the scheme to address these issues would have potentially resulted in a failure to meet such timescales, particularly where additional consultation is required. This was not a minor correction or clarification; it is a significant issue relating to the principle of development.
12. The applicant argues that he has experienced difficulty in accessing relevant information regarding flood risk on the Council's website. However, the evidence before me does not indicate that relevant information was deliberately withheld by the Council. In terms of flood risk, the Council clearly substantiated its position. It did not act unreasonably in relation to this issue, in any way.
13. In conclusion, unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. Neither a partial nor full award of costs is justified.

Neil Holdsworth

INSPECTOR