
Costs Decision

Site visits made on 13 July 2020 and 10 August 2020

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Costs application in relation to Appeal Ref: APP/C5690/W/20/3244672 48 Davenport Road, London SE6 2AZ

- 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 M Hussain for a full award of costs against the London Borough of Lewisham.
 - The appeal was against the refusal of planning permission for the change of use from existing C4 6 bedroom HMO for 6 occupants to sui generis 7 bedroom HMO for 10 occupants, installation of vehicle crossover for the provision of 1 off street parking space and the provision of secure sheltered bike storage for 10 cycles
-

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 applicant states that the Council acted unreasonably in so far as the Council misinterpreted its own planning policy¹ and did not realise that the location of a family dwellinghouse next to an electricity sub-station was an important material consideration. The applicant states that if the appeal site is not suitable for a family dwelling in accordance with DM Policy 3, then it should not have been refused which has put the applicant to unnecessary wasted expense in dealing with this appeal.
4. The PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. Whilst I agree that the Council may have been misguided in their choice of words stating that this was not a material consideration and was irrelevant, they have nevertheless provided an assessment on this matter in their statement. Paragraph 7.1 of their appeal statement states that they “*consider*

¹ DM Policy 3 of the Lewisham Local Development Framework – Development Management Local Plan, 2014

that the sub-station would not cause any significant issues to family given that it has been placed in a residential area and given the current number of existing residential properties that are within the vicinity of the area".

Therefore, the refusal on these grounds is not quite unsubstantiated. It will be seen from my decision that I agree with the Council that the presence of the substation, nor the concerns raised by the applicant, does not justify the loss of the family dwelling.

6. Furthermore, the Council refused the planning application for 5 separate reasons, and therefore I am not convinced that the refusal for the above reason in itself would have prevented the appeal from coming forward. Indeed, I have also found that the proposal is unacceptable with regards to the supply of single family dwelling houses; the living conditions of neighbouring occupiers, with particular regard to noise and disturbance; and on highway safety. It follows that I am satisfied that the Council has not acted unreasonably. Therefore, the appellant has not been put to any unnecessary or wasted expense with dealing with this appeal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the applicant's claim for costs fails.

R Satheesan

INSPECTOR