



Cost Decision

Site visit made on 25 August 2020 by Ifeanyi Chukwujekwu BSc MSc MIEMA CEnv AssocRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2020

Appeal Ref: APP/T5150/W/20/3248505

31A Braemar Avenue, London NW10 0DU

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 Lalji Vekaria on behalf of Saloria Capital Limited for a full award of costs against the London Borough of Brent.

The appeal was against the refusal of planning permission for the construction of a first-floor rear extension.

Decision

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

Summary of the Application and the Council's Response

2. The application, and the Council's response were submitted in writing and the cases will be familiar to the parties. Consequently, the following is a brief summary of the respective positions.
3. The applicant contends that the application was unreasonably refused thereby causing unnecessary and wasted expense in making an appeal. A full award of costs is sought on the basis that the Council did not allow the opportunity to discuss their concerns during the course of the application but only announced its refusal a few days before the decision. It is argued that the development should have been approved taking account of the fact that the character of the area has changed, regardless of whether developments were carried out with or without planning permission. The applicant contends that the Council's behaviour did not leave any time or demonstrate an intention for negotiation or discussing their concerns and were set on refusing permission from the outset.
4. The Council maintains that is properly considered the proposal against local and national planning policy and that the reasons were fully explained and set out in the delegated report.

Reasons

5. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour or no wasted expense an award will not be justified.
6. There was a dispute over the whether the character of the surrounding area has changed. The appellant appears to contend that the character of the

surrounding area has changed, as there are a series of similar developments to the proposal already existing, regardless of whether these were constructed with or without planning permission. For the reasons set out in the associated report, the fact that precedence exists does not establish the character of the area nor does it justify harmful development. This is a matter of planning judgement of the decision maker, and opinions may differ.

7. It appears to me that much of the basis of the applicant's costs claim stems from that misunderstanding. The Council fully explained its reasoning within the delegated report and its approach to considering the character of the surrounding area, notwithstanding the existence of other development.
8. The written representations suggest all relevant information was considered by the Council when deciding the application. The refusal reason was clear and sufficient evidence was submitted to support the Council's stance. It is a matter that required balanced judgement, and even though I reached a different conclusion than the Council I find no evidence that the Council had a pre-conceived stance to refuse the application; it merely considered the proposal against relevant policy.
9. Furthermore, the Council is not under any obligation to discuss its concerns prior to giving its decision. The onus is on the party seeking permission to seek pre-application advice in order to discuss concerns¹.
10. The applicant has not shown that the Council behaved unreasonably in refusing to grant planning permission. It follows that there are no grounds for an award of costs based on unnecessary and wasted expense as set out in the Planning Practice Guidance. A full or partial award is unjustified.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

11. Having considered the submitted evidence and the Appeal Planning Officer's report, for all the above reasons, I too concur that this application should be refused.

Chris Preston

INSPECTOR

¹ Paragraph 001 of the National Planning Policy Framework Planning Guidance on Appeals, as quoted in paragraph 4.03 of the appellant's Statement of Case