



Costs Decision

Site visit made on 14 September 2020

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2020

Costs application in relation to Appeal Ref: APP/R5510/W/20/3244564 21 & 21a Hatherleigh Road (land to the rear), Ruislip HA4 6AZ

- 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 Hatherleigh Holdings Ltd for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against the refusal of planning permission for demolition of existing garages (class B8 storage & distribution) and erection of two storey one bedroom dwelling with associated parking and amenity space provision.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantive matters (i.e. issues related to the planning merits of the appeal).
4. The appellant asserts that the Council acted unreasonably by introducing a reason for refusal that had not previously been raised during previous planning applications or discussions. Based on the information I have before me, which does not include full details of previous discussions or planning applications, I consider that the single reason for refusal related to the effect of the proposal on the character and appearance of the area. It is based upon a number of factors including siting, layout and site coverage and the perceived visual impact of the proposal on the surrounding area. I accept that the planning officer makes a comparison between the site and a previously determined appeal site at the opposite end of the street in the body of the officer's report but the reason for refusal does not rely upon this comparator.
5. The appellant goes on to state that the Council failed to attach sufficient weight to a previously determined appeal which the appellant considers to set a precedent. Planning appeals and applications must be determined upon their own merit and in accordance with the development plan unless other material considerations indicate otherwise. I acknowledge that the impact of a proposal upon the character and appearance of an area is largely subjective

nevertheless, the Council has provided detailed reasoning for their decision and has applied the relevant policies of the development plan. The positive determination of a similar proposal nearby, albeit a consideration, does not outweigh the need to determine the application in accordance with the development plan.

6. The final element of the claim for costs relates to the Council's alleged failure to assess the significance of the lawful B8 use of the appeal site. Whilst there is some force in the argument that the site could be used for B1 or B8 uses, I have no substantive evidence before me that would suggest this is likely should the appeal fail. I do not therefore consider the intensification of use to B1 or at B8 to represent a realistic fallback proposition that would justify a departure from the development plan.
7. The planning officer's report demonstrates that the Council objectively assessed the proposal against the development plan had due regard to the previous appeal decision and the lawful use of the site which are material considerations. Consequently, I am satisfied that the Council has substantiated the reason for refusal by undertaking an objective analysis.

Conclusion

8. For the collective reasons outlined above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

J Hunter

INSPECTOR