



Costs Decision

Site visit made on 1 September 2020 by C Brennan BAE (Hons) M.PLAN

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

**Costs application in relation to Appeal Ref: APP/U5360/D/20/3251172
18 Northchurch Terrace, Hackney, London N1 4EG**

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Karl Schultz and Karen Anderberg for a full award of costs against the Council of the London Borough of Hackney.
- The appeal was against the refusal of the Council to grant planning permission for erection of a cat pole system which consists of horizontally mounted poles being fixed to the top of an existing boundary wall via wooden stanchions.

Decision

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

Application Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the application.

Reasons for the Recommendation

3. The Planning Practice Guidance ("PPG") advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably where this has directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to procedural matters at appeal or with respect to the substance of the matter under appeal, for example by preventing or delaying development that should clearly have been permitted.
 4. In their statement, the applicants assert that they experienced delays getting their application validated, that the Council neither fully understood nor gave sufficient time to consider the proposal before a decision was issued, and that nobody from the Council had visited the site. The applicants also state that they were told that 12 objections had been submitted, while in reality only 4 were submitted. They also suggest that two versions of the delegated report are available to view online, with one recommending approval and the other recommending refusal. Overall they suggest that the Council was not communicative during the application process.
 5. I agree that the delays to validation, confusion over the number of objectors and general lack of communication with the appellants is indicative of poor practise by the Council. Furthermore if the Council did not visit the site before determining the application, that would also indicate poor practise. Indeed, such actions could be considered, as a whole, to represent unreasonable
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behaviour. However, despite this, the content of the officer's report does not suggest the Council came to an unreasonable conclusion on the merits of the case, particularly in concluding that there would be no amenity impact. In addition, I have only seen one version of the delegated report and so I can only provide comment on the contents of that version.

6. As such whilst I sympathise with the appellant and consider the Council's performance to be poor in many respects, I do not consider this has led to the appeal unnecessarily, and the associated costs. Indeed, as the appeal has been dismissed, the Council's actions did not delay or prevent development that should clearly have been permitted.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Conclusion and Recommendation

8. For the reasons given above and having had regard to all other matters raised, I recommend that the application for an award of costs should be refused.

C Brennan

APPEAL PLANNING OFFICER

Inspector's Decision

9. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for costs is refused.

Andrew Owen

INSPECTOR