



Costs Decision

Site visit made on 4 November 2020

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 18 November 2020

Costs application in relation to Appeal Ref: APP/U5360/W/20/3248149 93 Stoke Newington Church Street, Hackney, London N16 0AS

- 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 Joel Braham for a full award of costs against London Borough of Hackney.
 - The appeal was against the refusal of planning permission for the use of the rear terrace for external seating, with limited hours of use.
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Decision

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

Reasons

2. The National 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 or wasted expense in the appeal process.
3. The appellant lists two grounds on which they believe the Council has acted unreasonably; firstly by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and secondly the applicant believes that the refusal of the proposal was based upon vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. Both grounds are interrelated and revolve around assertions about noise and disturbance of the proposal which the Council believed would be detrimental. During the determination of the application, it would appear that the decision was based upon officer opinion (which included advice from the Council's Environmental Health team) as well as opinions from interested parties who responded to the advertisement of the planning application.
5. It is noted that the Noise Assessments¹ submitted by the applicant during the appeal process was not up for consideration during the planning application. In this regard the Council Officer's judgement was based upon the evidence before them which included internal advice and neighbour objections which when considered together resulted in a negative appraisal of scheme.

¹ The Good Egg External Customer Noise Assessment, Dated 28 January 2020, by Hayes McKenzie Consultants in Acoustics.

6. Whilst the noise assessment supports the scheme and provides evidence that impact would not be as great as was initially determined, the applicant took it upon themselves to prepare this additional information to support the appeal. Whilst planning officers would have benefited from this further information during determination of the application and may have been persuaded by this new evidence, I do not see that the Council acted unreasonably in line with the PPG.
7. Accordingly, I find that the Council did not fail to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. The Council had reasonable concerns about the impact of the proposed development which justified its decision. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

J Somers

INSPECTOR