



Costs Decision

Site visit made on 5 January 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2021

Costs application in relation to Appeal Ref: APP/T5150/W/20/3256801 43 Salusbury Road, London NW6 6NJ

- 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 Miss Vanessa Siani for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for extension of existing ground and lower ground floor to the rear, construction of new dwelling over ground floor over three floors to form 3-bedroom maisonette and rear amenity space, and add a gate on party fence.
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Decision

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

Reasons

2. 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 applicant's application for costs is based on the alleged unreasonable behaviour of the Local Planning Authority ('LPA') and wasted expense, for reasons, as considered below.
4. In this case, the LPA did fail to determine the planning application within the prescribed time-limit. However, this was largely due to the LPA wanting to resolve an outstanding objection from Network Rail. Indeed, it would appear that the applicant requested to extend the timeframe of the application to resolve this. Although I have found in favour of the applicant in respect of Network Rail's objection, this was clearly an issue of significant concern for the LPA, which is a matter of judgement for the decision maker.
5. The LPA has also explained that Network Rail's objection was considered an 'in principle' matter that needed resolving before other matters such as design issues could be resolved. Whilst I understand the applicant's frustration in not having sufficient time to address other matters, a pre-application submission would have been the appropriate forum to ensure that any potential issues were appropriately identified and addressed in a timely manner.
6. Moreover, on the basis of the information before me, I cannot be certain that any additional discussions or an amended proposal would have resulted in a

favourable outcome for the applicant. In particular, because the Network Rail objection has not been withdrawn.

7. While I note the applicant's willingness to work with the LPA, in light of the above reasons, it would not be reasonable to conclude that the LPA had behaved unreasonably in the process leading up to the appeal. Furthermore, at appeal the LPA has put forward its putative reasons for refusal which are supported by an appropriate assessment of the proposal with reference to relevant development plan policies.
8. The LPA has approved a scheme for extensions to a property at 28 Salusbury Road. However, that proposal relates to a mid-terrace property, unlike the appeal property, which is a prominent end-terrace building which adjoins railway land and infrastructure. The details of the proposals are also different. As such, the two schemes are not comparable and in any event each application is determined on its merits. As such, I do not consider that the LPA has been inconsistent with its decision making.

Conclusion

9. Given all the foregoing, I find that the LPA did not act unreasonably in this case. Accordingly, it is not necessary to consider the question of unnecessary or wasted expense. I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated.

M Aqbal
INSPECTOR