



Costs Decision

Site visit made on 23 February 2021

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st March 2021

Costs application in relation to Appeal Ref: APP/R5510/W/20/3262001 46 Bath Road, Harlington UB3 5AH

- 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 M Johar for a partial award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against the refusal of planning permission for Change of use to 10 room house in multiple occupation (sui generis). Provision of car parking and cycle/refuse storage.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may 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. The applicant has sought a full costs award excluding the expense associated with the preparation of the unilateral undertaking submitted with the appeal.
3. The Council refused an application for a 10-bed House in Multiple Occupation at the site in January 2020 under reference 24469/APP/2019/3265 (the previous scheme) due to parking and highway safety concerns. The applicant contends that the previous scheme is identical to the proposal subject to the appeal (the proposal) in several respects.
4. The Council refused the proposal due to concerns regarding the adequacy of the accommodation in respect of Bedroom 7 as shown on the floor plans submitted with the proposal initially. It also determined that outdoor amenity space would be inadequate. These matters were not identified previously. The Council also refused the proposal due to parking and highway safety concerns despite acknowledging that these could have been addressed via a legal agreement. The applicant claims that the Council has failed to determine the applications consistently and that a legal agreement could have been completed during the application process if the proposal had not been refused for the other reasons.
5. The PPG indicates that local planning authorities will be at risk of an award of costs being made against them if they prevent development which should clearly be permitted and fail to determine similar cases in a consistent manner.

6. The proposal would have a formal parking arrangement that differs markedly from the existing informal arrangement and the tandem parking layout that the Council based its decision on for the previous scheme. Consequently, the amount and quality of the existing and proposed amenity space for both proposals are different. As set out in the appeal decision, conditions would not have been able to have provided an adequate arrangement. The Council was therefore able to reasonably conclude that the proposed amenity space was unacceptable.
7. The parties agree that there is no difference between the proposals in terms of the standard of living conditions for occupiers of Bedroom 7. Some of the relevant development plan policies have changed since the previous scheme was refused. Although there are modest differences between the relevant superseded and extant policies, I do not consider that the Council acted unreasonably in concluding that the living conditions would be inadequate. Moreover, the applicant's daylight and sunlight report identifies that Bedroom 7 would not receive adequate daylight and that changes to the building would be required to address the matter.
8. I therefore also find that it was reasonable for the Council to refuse the proposal due to parking and highway safety concerns in the absence of a legal agreement. This is because the submission of an agreement would not have addressed its other concerns. I also note that the Council confirmed within its appeal statement that it would not seek to defend the refusal reason relating to parking and highway safety.
9. The PPG sets out that where a local planning authority has refused a planning application for a proposal that is not in accordance with development plan policies, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs. I am satisfied that the proposal and the previous scheme are not directly comparable and that the Council refused a proposal which is not in accordance with the development plan.
10. In conclusion, the Council has not acted unreasonably and the applicant has not been put to unnecessary or wasted expense. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Mark Philpott

INSPECTOR