



Costs Decision

Site visit made on 16 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/Y5420/W/20/3263678 23 Coolhurst Road, London N8 8EP

- 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 Rob and Julie Mackenzie for a full award of costs against Coolhurst 1 Ltd.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for change of use of the building from C2 (Care Home) to C3 (residential), and redevelopment of part to provide nine units (3 x 1 bed, 2 x 2 bed, 2 x 3 bed & 2 x 4 bed) alongside associated parking and landscaping works.
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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.
3. The applicants contend that the appellant provided evidence which is inaccurate, inadequate and misleading. The PPG indicates that appellants will be at risk of an award of costs being made against them if they provide evidence which is manifestly inaccurate or untrue or deliberately conceal relevant evidence.
4. The PPG states that it is not anticipated that awards of costs will be made in favour of interested parties, other than in exceptional circumstances. It states that an award will not be made in favour of interested parties where a finding of unreasonable behaviour relates to the merits of the appeal, but an award may be made on procedural grounds.
5. The applicants put forward various shortcomings with the proposal. Notable concerns are raised regarding the drawings, the basement impact assessment, the transport statement and the daylight and sunlight report. However, it is not unusual for councils and interested parties to identify deficiencies with evidence during planning application and appeal processes and thus the circumstances in this case are not exceptional. Moreover, the Council and interested parties have clearly been able to scrutinize the evidence. Additionally, the technical reports were submitted during the planning application process. The Council could have requested further information or clarification from the appellant to

address any specific concerns if it was so minded as part of the positive engagement that is expected from both applicants and councils.

6. I acknowledge that the applicants appointed consultants to support their case. However, the PPG clearly states that parties in planning appeals should normally meet their own expenses. Whilst some of the appellant's evidence may contain inaccuracies, I am not convinced that evidence has been deliberately concealed or that there are deficiencies present that are so obvious, pervasive and remarkable that it can be concluded that unreasonable behaviour has occurred. Furthermore, it has not been demonstrated that exceptional circumstances exist to justify an award of costs.
7. In conclusion, the appellant has not acted unreasonably and the applicants have 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