



Costs Decision

Site visit made on 13 January 2021

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2021

Costs application in relation to Appeal Ref: APP/H5390/W/20/3256222 113 - 135 Lillie Road, London, SW6 7SX

- 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 R U Linked for a full award of costs against the Council of the London Borough of Hammersmith & Fulham.
 - The appeal was against the refusal of planning permission for a full planning application comprising first floor rear extension and a second floor roof extension to create 10 no. residential units (9 x 1 bedroom and 1 x 2 bedroom) at first and second floor level, along with refurbishment of the ground floor retail units and alterations to the existing shopfronts.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. Examples of unreasonable behaviour by local planning authorities set out in the PPG include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant submits that the Council has acted unreasonably in that its reason for refusing the application was based on an assumption regarding the internal layout of the proposed development rather than on an assessment of the actual layout in the proposed plans.
5. The Officer's Report refers to the relabelling of the first floor rear habitable bedroom/bathroom areas of the proposed flats as non-habitable utility room/bathrooms. It stated that the utility rooms could be used as bedrooms and would likely result in substandard accommodation for future occupiers due to inadequate light and poor outlook. The Council's assessment of the proposal was therefore based on the potential future use of rooms rather than the proposed use. With reference to my accompanying decision, in my view, the internal layout of the proposed flats has been significantly reconfigured and consequently addressed the concerns that led to the previous scheme being dismissed.

6. It was wrong to assess the proposal on the basis that the rear first floor rooms could be used for a different purpose than that which was proposed. The Council therefore acted unreasonably in considering that the proposal would lead to unacceptable living conditions for future residential occupiers of the proposed development, which justified its decision.

Conclusion

7. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Hammersmith & Fulham shall pay to R U Linked, the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to the Council of the London Borough of Hammersmith & Fulham, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

P D Sedgwick

INSPECTOR