



Costs Decision

Site visit made on 23 February 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Costs application in relation to Appeal Ref: APP/A5270/W/20/3259903 59 & 59A Eaton Rise, Ealing W5 2HE

- The application is made under the Town and Country Planning Act 1990 as amended (the Act), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Emil Moskofian for a full award of costs against the Council of the London Borough of Ealing.
 - The appeal was against the refusal of the Council to grant planning permission for conversion of building from two self-contained flats into seven self-contained flats: three storey rear extension with basement level excavation, single storey rear extension and three storey side infill extension; two dormer windows to the front facing roofslope; three rooflights to the front facing roofslope: single storey outbuilding to the rear garden for cycle and refuse storage, rear side access, and associated external elevation works and boundary treatment, without complying with a condition No.2 attached to planning permission Ref: 184748FUL, dated 4 February 2020.
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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 expense in the appeal process.
3. The application centres on the applicant's claim that the Council (a) made inaccurate assertions about the proposal's impact which were not supported by objective analysis and (b) failed to provide evidence to substantiate the reason for refusal.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they make inaccurate assertions about a proposal, unsupported by objective analysis and evidence.
5. It will be clear from my decision that in this case I am unable to proceed to consider the planning merits of this case under the powers conferred by s73 of the Act. Notwithstanding this, I see evidence in the Delegated Report of the Council's analysis of the proposal's impact and quality, in terms of visual amenity and the character of the conservation area. This constituted the exercise of planning judgement on such matters.

6. The applicant considers that the Council acted unreasonably in citing Minor Material Amendments (MMA) assessment criteria¹ in the reason for refusal, having validated the application for the proposal as a MMA application. However, the fact that an application is made to vary a planning condition comes with the possibility of refusal. Validation as a MMA application did not automatically mean that the proposed scheme would satisfy the assessment criteria.
7. To conclude, I find as follows. The Council provided analysis and rationale for its reason for refusal, and applied its planning judgement about the proposal's impact. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case in respect of matters (a) and (b).

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for costs fails.

William Cooper

INSPECTOR

¹ As per the Council's Protocol for Minor Material Amendments following a grant of Planning Permission (2011).