
Costs Decision

Site visit made on 18 February 2021

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 April 2021.

Costs application in relation to Appeal Ref: APP/Z5060/W/20/3260545 237 Grafton Road, Dagenham RM8 1QP

- 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 Bharadia for a full award of costs against the Council of the London Borough of Barking and Dagenham.
 - The appeal was against the refusal of planning permission for a proposed new 1 bed 1 person dwelling set over 2 storeys.
-

Decision

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

Reasons

2. The Planning Practice Guidance 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 appellant submits that the Council has acted unreasonably by failing to produce evidence to substantiate each reason for refusal on appeal, making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, and prevented the development when it should have been permitted. In this instance, the Council's case has had to be considered just in relation to the officer report at the application stage, as no appeal statement has been submitted.
4. It is evident from the main decision that I have disagreed with the Council's reasons for refusing permission. Nonetheless, the reasons for the refusal set out in the decision notice relating to the character and appearance of the development and the provision of outdoor amenity space are complete, specific and relevant to the application. The officer report sets out an assessment of the indicated harm in these respects, and how they would conflict with relevant adopted planning policies. The Council's position has been further clarified in its costs response statement, providing adequate explanation of the salient points raised by the appellant.
5. The issue of internal amenity space is less clear cut, but I bear in mind that there are no definitive standards for 1-bed, 1 person, 2-storey dwellings. Even if I were to conclude that an error had occurred in the Council's assessment of the development, there is no evidence that significant additional material was necessary to counter this matter. As such no wasted expense has been incurred by the appellant.

6. Therefore I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme, and as such the appeal could not have been avoided. The Authority had reasonable concerns about the impact of the proposed development which justified its decision.
7. The preparation of appeal evidence is a matter that is within the hands of the main parties. Amongst other things, the appellant has referenced case law, policy context, the London Plan 2021, the Council's 2019 Strategic Housing Market Assessment update (SHMA) and the Council's 5-year Housing Land Supply Statement. The appellant has chosen to submit material that ultimately had no bearing on the outcome, as I have found that the appeal proposal would be acceptable on the main issues. I would not expect the Council to respond to such arguments if it did not deem necessary.
8. Although I have reached a different conclusion to the Council on the planning merits of the case, this does not mean that the Council has acted unreasonably in substantiating its reasoning only in the officer report. Consequently I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

C Hall

INSPECTOR