



Costs Decision

Site visit made on 25 February 2021

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2021.

Costs application in relation to Appeal Ref: APP/Q5300/D/20/3260578 36 Monmouth Road, Edmonton, London N9 0LR

- 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 Munir Tatar for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for conversion of single family house into 2 self-contained dwellings consisting of 1 x 3 bed and 1 x 1 bed maisonettes.
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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 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. There is a disagreement between parties as to the description of development. From the documentation before me it is clear that the Council misinterpreted the proposal before them. The Council contend that there is no requirement for a Local Planning Authority to notify an applicant when the description of development is amended. However the Planning Practice Guidance is clear that the local planning authority should not amend the description of development without first discussing any revised wording with the applicant or their agent.
4. Notwithstanding the disagreement relating to the description of development, I am not persuaded that the description given by the Council was a fundamental issue in determining the application. The proposed development could be considered as 2 self-contained flats, although as noted in the procedural matters section of my decision I have expanded the description to more accurately describe the appeal proposal.
5. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
6. It will be seen from my decision that there were not sufficient grounds for refusing planning permission on grounds relating to the loss of family housing, the effect on the living conditions of future occupants, the provision of cycle, refuse and recycling storage facilities and the effects on climate change.

7. The reasons for refusal numbers 1 and 2 reference the loss of family housing and substandard accommodation with regard to the National Described Space Standards. It is clear from the documentation provided that the Council failed to identify the details of the proposal before them and determining the application on the basis of 2 x 2 bedroom flats rather than the 1 x 3 bedroom maisonette and 1 x 1 bedroom maisonette proposed. I consider that the Council has behaved unreasonably in this respect.
8. In relation to the provision of cycle storage and refuse/recycling facilities along with measures to promote sustainable development as outlined in reasons for refusal 3 and 4 the Council have not provided substantive reasoning why these matters could not be controlled by the imposition of planning conditions. Whilst the existing use of the property does not benefit from planning permission and the appeal site is subject to enforcement action and investigation this is a separate matter and does not preclude the imposition of conditions relating to a planning proposal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated, in this case having to prepare a case in relation to the reasons for refusal and that a full award of costs is justified.

Costs Order

10. 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 Enfield shall pay to Mr Munir Tatar, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to reasons for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the Council of the London Borough of Enfield, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Pipe

INSPECTOR