



Costs Decision

Site visit made on 8 December 2020

by Jan Hebblethwaite MA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18 May 2021

Costs applications in relation to Appeal Ref: APP/Z5060/W/20/3249128 Land adjoining 68 Ivyhouse Road, Dagenham RM9 5RR

- The application for costs 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 Mohamed Bharadia (the appellant) for a full award of costs against the London Borough of Barking and Dagenham Council.
 - The Appeal was against the non-determination by the Council of an application Ref 19/01738/FUL for permission to demolish existing garage and create a new 2 storey, single occupancy, studio home.
-

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 makes a number of points about the way in which the Council handled the application. These can be summarised as unnecessary delay in dealing with the application and failing to properly assess the application against the up-to-date policy background.
4. I note the Appellants review of the Council's case and his assessment of the Council's report. The policy background at the time of the application was changing but even if the Council's report referred to an earlier version of the London Plan, I do not consider that the analysis of the application would have been different to that which was set out in the Councils report.
5. From a comment by the Appellant, it appears that the Councils case officer changed during the course of the application. It is implied that was in part the cause of the delay in handling the application. The staff change was unfortunate but does not amount to unreasonable behaviour by the Council.
6. The Council's report was a fair analysis of the issues raised by the application. The one issue which the Council found unacceptable related to the overshadowing of the neighbouring property. The Appellant takes issue with the term "overlooking" used by the Council because, as he rightly states, there are no rear windows in the proposed dwelling to that there can be no overlooking of the neighbouring property. However, the terms of the relevant policy (BP8) deal with both overlooking and overshadowing. I accept that there would be no overlooking, but the Policy is still relevant in terms of overshadowing.

7. I do not find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated.

Jan Hebblethwaite

INSPECTOR