



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: 24 May 2021.

Costs application in relation to Appeal Ref: APP/Q5300/D/20/3261391 63 Gordon Road, Edmonton, London N9 0LX

- 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 Daniel Cheifetz, William Carter Limited 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 the creation of a new rear extension at first floor level, together with alterations to the rear elevation, and the creation of an additional bedroom to form a 7 room HMO (Sui Generis).
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Decision

1. The application for a partial 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. A full award of costs is sought by the applicant and the application has been made on both procedural and substantive basis.
4. 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 and failed to take into account the existing permitted use as a HMO (Sui Generis). 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.
5. According to the documentation before me the Council based their assessment of the proposal on the change of use of the property from a C4 HMO to a Sui Generis HMO, this was not the proposal before them.
6. 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.

7. It will be seen from my decision that I disagree with the Council and that there were not sufficient justification for refusing planning permission on grounds relating to the effect on the living conditions of occupants of neighbouring properties; nor relating to the adequacy or suitability of the proposal on the living conditions of future residents of the proposed development.
8. The Appellant contends that the Council erred in their assessment of the proposed development on a number of points including stating that there would be a loss of communal facilities, assessing the existing permitted layout of rooms not affected i.e the outlook from room 2, misinterpretation of the Council's HMO Standards Guidance, I agree. I am not satisfied that the Council has shown that it was able to substantiate its reason for refusal number 1.
9. Whilst I do not agree with the Council in terms of the potential effect on the character and appearance of the area, I do not agree that they have acted unreasonably. As set out in the officer report the Council has properly considered the application against the relevant development plan policies and national policy. The design of development is a subjective matter and as the Council have provided substantive justification for their decision relating to the proposed extension they have not acted unreasonably in this regard.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated with regard to reason for refusal 2 relating to the character and appearance of the area. However, I 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 reason for refusal 1, including the preparation of application for the award of costs and that a partial award of costs is justified.

Costs Order

11. 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 Daniel Cheifetz, William Carter Limited, 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.
12. 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