



Costs Decision

Site visit made on 18 May 2021

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 June 2021

Costs application in relation to Appeal Ref: APP/R5510/W/20/3266043 Land adjacent 21 St Helen Close, Uxbridge UB8 3RS

- 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 J Johal for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against the refusal of planning permission for "erection of end of terrace dwelling - one bedroom."
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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 main thrust of the applicant's claim for a full award of costs relates to the Council's assessment of the proposal as a house with additional bedrooms to that specified in the description of proposed development and identified on the submitted plans, which the applicant claims is based on assumptions of a hypothetical scenario. The applicant claims the submitted plans were clear and unambiguous, showing one single bedroom and not seeking a use of the second floor of the proposed three-storey house, which the applicant claims would not be utilised for habitable accommodation and did not form part of the description of development proposed. It is claimed the Council failed to consider granting planning permission subject to planning conditions or a unilateral undertaking to restrict the use of the second floor resulting in a decision that went beyond the realms of planning.
4. The Council assessed the proposal as a three-storey, three-bedroom, 6-person house on account of the existence of a second floor, which they described as "clearly capable of use as habitable accommodation". The Council considered their objections to the proposal were so significant that they could not be overcome by way of imposing any conditions, and that it was a matter for the applicant to present a suitable unilateral undertaking as part of the proposal.
5. I have set out my findings on these matters in the appeal decision. Despite the appellant's claims to the contrary, the plans submitted are ambiguous in that they seek planning permission for a three-storey one-bedroom house, but the whole of the second floor and roof space was shown to be inaccessible, yet served

by windows and roof lights. The applicant's claims that planning permission was not being sought for a use of the second floor are incorrect, as this formed part of the development proposed, despite the description of proposed development only specifying one bedroom.

6. I found that it would not have been appropriate for planning permission to have been granted for the proposed development subject to conditions controlling the number of bedrooms, considering that any future internal changes would not be development for which express planning permission would be required. Also, no legal agreement effectively controlling such matters had been presented with the appeal. In my view, this was a matter for the applicant to address as part of the proposal. I concluded therefore it was reasonable and appropriate to assess the proposal in a similar manner to the Council, which was based on full and proper consideration of the design of the proposed development.
7. I have dismissed the appeal in line with the Council's first and second reasons for refusal, but have not found any unacceptable harm to pedestrian or highway safety to justify the Council's third reason for refusal. That said, based on the assessments made, I do not consider the Council's actions to have been unreasonable or to have led to wasted expense on the applicant's part in pursuing the appeal, which was their decision in any case. In addition, very little of the applicant's submissions seek to address the Council's third reason for refusal other than in the same manner the other reasons for refusal were challenged.

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, an award of costs is not justified.

L Douglas

INSPECTOR