



Costs Decision

Site visit made on 10 May 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2021

Costs application in relation to Appeal Ref: APP/F5540/W/21/3267644 10 Staines Road, Hounslow TW3 3JS

- 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 Niche Real Estate (UK) Limited for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against the refusal of the Council to grant approval under a development order for erection of two additional floors above the existing third floor creating additional six flats (4 x 2 bed and 2 x 3 bed) with associated works.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicants' case fundamentally rests on the Council's unreasonable behaviour in failing to assess the case in an objective manner and produce evidence to substantiate its refusal reason that the building is attached. Furthermore, the Council, in the applicant's view, did not conduct a comprehensive inspection of the site. In their view, this has resulted in them incurring unnecessary expense.
4. The format of the officer's report is generalised and lacking detailed analysis. However, the Council's appeal statement has been accompanied by information that provides background to its decision. In it, the Council states it assessed the scheme on the information that accompanied the application as well as an inspection of the site from public vantage points. Based on this information it was not possible for them to conclude that the building was detached for the purposes of Class AA.
5. I note that the applicant's submission states that the gap between the buildings can be best seen from the roof, however, there were no photographs to substantiate this. Given that the gap between the buildings is not evident from public vantage points, it would have been reasonable for the Council to expect this essential information, to accompany the application in order for it to assess whether the building complied with Class AA. Furthermore, additional photographs accompanied the appeal showing the separation between the two

buildings during the original construction of the appeal building. Had these been submitted with the application they may have provided the Council with more clarity on whether the building was attached or detached from No 8 Staines Road (No 8). No requests for further information were made by the Council at the time of the application being determined. However, cases involving development order proposals, are usually restricted in terms of the time allocated for determination, and the Council would be reasonable in determining the case on the information that accompanied the application.

6. Therefore, I am satisfied that the Council made its decision on the basis of the information submitted with the application and based on the information that accompanied the appeal, I am satisfied that they have provided adequate justification for their decision, insofar as determining the application in a reasonable way.
7. The applicant states that the Council should have requested access into the building in order to assess the scheme from those locations where the gap with No 8 is visible. Whilst this would have been a reasonable expectation, the ongoing Covid-19 pandemic, meant that the local planning authority's instructions to its Officers was that site visits should only be undertaken if essential and where these could be taken place without entering a building. Based on these procedures, which were inevitably put in place to protect the health of Council staff and those it came into contact with, the Council did not act unreasonably in this regard.
8. It is acknowledged that the applicant may not have been aware of the Council's procedures in relation to its Officer's entering buildings. However, given the Covid-19 pandemic and the associated health risks in entering properties, it may have been prudent for the applicant to supplement statements of relevant viewpoints from non-public land or buildings with photographic evidence.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R. E. Jones

INSPECTOR