
Costs Decision

Site visit made on 3 June 2021

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021.

Costs application in relation to Appeal Ref: APP/Q5300/W/20/3264366 133 – 135 Bowes Road, Enfield, London N13 4SE

- 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 Dr Surraiya Zia for a full award of costs against the London Borough of Enfield Council.
 - The appeal was against the refusal of planning permission for the 'change of use of ground floor from medical service (Class D1) to 2 x commercial units (Class A1) and 2 x self contained flats (Class C3), involving a single storey rear extension'.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 PPG also provides examples of unreasonable behaviour by local planning authorities. These include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The appellant alleges that the London Borough of Enfield (the Council) was unreasonable, disengaged, and slow in its handling of the application. Specifically, she says the Council has ignored the outcome of an earlier planning application and appeal, that it failed to engage with her agent until after the statutory determination date, that it did not engage positively to resolve the amount of amenity space required, and that it has prevented desirable and necessary regeneration.
5. I can appreciate the frustration concerning delays during the application stage. However, the background to this appeal includes an earlier recent appeal decision on a similar scheme. It would have been clear from reading that decision, that the harm found by the Inspector was not simply about 'density' and that the matter would not automatically be resolved by a reduction in dwelling numbers from 3 to 2. The Inspector identified specific concerns relating to private external space, aspect, and privacy and judged that the scheme would result in residential units (plural) that would fail to provide future occupants with high standards of amenity, as required by the

development plan and national policies. I have found similar failings, and consequential harm, in respect of the current appeal proposal.

6. While clearly not to the appellant's satisfaction, from the evidence before me, there appears to have been some dialogue between the parties during the course of the application, including relating to the matter of private external space. I have also noted the Council's submission that the appellant chose not to engage in any pre-application advice process following the earlier appeal and prior to making the application which has led to this appeal.
7. On the main issue in this case, the Council has provided reasons for their opposition to the proposal and how they relate to the development plan and national planning policies. Therefore, even if it had made a decision on the proposal earlier, or engaged more fully with the applicant on its objections, there is no compelling evidence to suggest that this would have led to permission being granted and thereby avoiding the need for the appeal.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not justified. Accordingly, the application is refused.

P. Staddon

INSPECTOR