



Costs Decision

Site visit made on 1 June 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2021

Costs application in relation to Appeal Ref: APP/Q5300/W/20/3257405 2 Sarnesfield Road, Enfield, Middlesex EN2 6AS

- 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 S Chau 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 conversion of property to form retention of reduced sized restaurant and self-contained flats together with new roof extension to form self-contained flat.
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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. Costs may be awarded to any party regardless of the outcome of the appeal. Patently this is a two-stage test. The PPG also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process.
3. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded. An award of costs may either be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. Paragraph 049 of the PPG cites various examples of unreasonable behaviour by local planning authorities.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal or with respect to procedural matters by 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. The applicant submits that the Council has acted unreasonably through a lack of engagement by the Council during the application process, thus preventing or delaying development. The Council has defended the level of engagement with the applicant during the course of the application's assessment and advises of the Council's pre-application process.
5. Paragraph 38 of the National Planning Policy Framework requires local planning authorities to approach proposed development in a positive and creative way

and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, amongst other things. Furthermore, the PPG advises that resistance to, or lack of co-operation with the other party or parties in providing information, discussing the application may lead to an award of costs.

6. I find that there appears to have been little communication by either party during the assessment of the planning application and that little evidence exists to suggest any attempt to obtain any pre-application advice from the Council was sought by the applicant. Whilst the applicant asserts that he would have provided the additional information had he known it was required, I find little before me to indicate that this would have been the case, as no attempt has been made to provide any of the additional details in the submission of this appeal.
7. However, even if the additional details were provided, there is an indication that the applicant would have still had to appeal in any event due to the design of the proposed development and the effect on the character and appearance of the appeal site and the surrounding Enfield Town Conservation Area. Furthermore, the decision was a matter of judgement based on the evidence before the Council and they took into account the development plan. I am satisfied that the Council adequately substantiated their reason for refusal.
8. It will be seen from the decision in the appeal that I reached a similar conclusion to the Council with regard to the impact of the proposed development. Having regard to this, whilst there appears to have been a lack of communication between the main parties before and during the assessment of the planning application, the Council did not delay development that should have been permitted having regard to the policies in the development plan, national policy and other material considerations. In this case the appeal could not therefore have been avoided.

Conclusion

9. On the basis of the evidence before me, I conclude that it has not been demonstrated that unnecessary or wasted expense in so far as an award of costs could be justified. I therefore determine that the costs application should fail and no award is made.

W Johnson

INSPECTOR