



Costs Decision

Site visit made on 11 May 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2021

Costs application in relation to Appeal Ref: APP/T5150/W/21/3267789 225-227 Edgware Road, Kingsbury, London NW9 6LU

- 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 John McGowan for a partial award of costs against the Council of the London Borough of Brent.
 - The appeal was against the refusal of planning permission for OUTDOOR SMOKING SHELTER TO THE REAR OF THE PUB AT 225-227 EDGWARE ROAD, LONDON NW9 6LU.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 or wasted expense in the appeal process.
3. The applicant's application for costs is based on the alleged unreasonable behaviour of the Council and wasted expense, for substantive reasons, as considered below.
4. In summary, the Council's second reason for refusal alleges that the loss of servicing and parking facilities in the rear yard of the appeal site, would result in inappropriate servicing from the surrounding public highway and increased parking pressures on Wakemans Hill Avenue to the detriment of highway safety.
5. In support of the above reason as part of their cost's rebuttal, the Council has referred to the need for parking and servicing in the rear yard of the appeal property being established in the determination of previous planning applications 96/0692 and 97/0351. Although these applications were not specifically identified in the planning history of the Council's delegated report, I cannot be certain that the Council were not aware of these when determining the applicant's planning application. The Council also had some evidence that the yard had been used for vehicle parking.
6. Notwithstanding the above, in determining the applicant's planning application, as set out in the Council's delegated report, the Council had regard to parking and servicing requirements. To what extent these are material to the determination of the planning application is a matter of planning judgement for the Council as the decision maker. Moreover, Policy DMP12 and DMP13 of the

- Development Management Policies (2016) ('DMP') require all developments to provide parking and servicing facilities in line with the Council's standards.
7. In light of the above, it was not unreasonable of the Council to consider the need for parking and servicing with regard to the proposal.
 8. The Council's second reason for refusal is complete, precise, specific, and refers to relevant development plan policies. The Council's conclusions about the impact of the proposal are clear and supported by sufficient analysis.
 9. Whilst a loading bay exists in front of the appeal site along Edgware Road, from the planning application submissions it would not have been clear that this is utilised by the public house for its servicing requirements. Although the Council did not seek clarification from the applicant about servicing and vehicle parking arrangements, this is not in itself unreasonable behaviour.
 10. Although the Council's delegated report refers to the lack of servicing facilities for a 10m rigid lorry, the report also acknowledges that the yard would not be able to accommodate this. However, there is no apparent justification for the yard being used for vehicle parking and/or cycle storage in association with the flats at the appeal property. Nevertheless, for the above reasons, and despite granting planning permission for the outdoor smoking shelter, I am satisfied that overall, the second reason for refusal was justified.
 11. Given all of the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a partial award of costs is not justified.

M Aqbal
INSPECTOR