



Costs Decision

Site visit made on 10 June 2021

Decision by Scott Britnell MSc FdA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2021

Costs application in relation to Appeal Ref: APP/T5150/W/20/3263741 69 Hardinge Road, London NW10 3PN

- 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 Dhanji Jetha for an award of costs against the Council of the London Borough of Brent.
 - The appeal was against the refusal of planning permission for conversion of single dwellinghouse into two flats and associated internal alterations.
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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 applicant has applied for a full award of costs. Firstly, the applicant suggests that the Council refused to engage with the appellant in a proactive or constrictive manner in order to find solutions to their concerns.
4. The applicant submitted an amended scheme during the application process. I have been provided with a copy of e-mails between the Council's Officer and the applicant's agent regarding the suggested amendments. I note that the e-mails indicate that phone calls had also taken place between the Council and the applicant's agent. These e-mails show that the Council's Officer set out the issues with the proposed scheme, how they considered it to conflict with policy and why they considered the precedents officered for comparison were not comparable to the proposal.
5. It is clear from the information before me that the Council considered there to be a number of issues with the proposal and that a revised scheme would involve a complete reconfiguration of the proposal, which in turn may have created further issues. Having indicated this, I do not find it unreasonable that the Council continued to determine the application on the basis of the details before them and not to accept the amended plans.
6. The applicant also suggests that the Council acted unreasonably in terms of how they assessed the proposal. In particular, the applicant considers that the way the Council calculated the internal floor space of the proposed 3 bed flat was incorrect. I have considered this matter under the substantive appeal and note that in calculating the Gross Internal Area (GIA) of the flat the Council

made reference to the Technical Housing Standards. This indicates that a room does not have to be a habitable room to be included in the GIA calculations and so the Council included the ground floor entrance area to the flat in their calculations. I do not consider the Council's approach in this matter to be unreasonable and note that the applicant has also included this area in their own calculation.

7. The applicant also suggests that allowing for the Council's suggestion that the proposed 3 bed flat is set over three floors, that the shortfall in minimum space standards is marginal and should not justify refusal. While, I have found in favour of the applicant's argument in this regard in the substantive appeal, the fact is that the proposed flat would not satisfy the minimum space standards. Therefore, the Council have not acted unreasonably in applying the space standards, albeit I have found that the shortfall would not result in harm.
8. The applicant suggests that the Council in assessing the proposal against Policy DMP17 has assessed it against an unnecessary requirement. However, I consider that this policy is relevant to the proposal as it relates to the conversion of family sized dwellings. Therefore, it is correct that the Council have had regard to it. Moreover, while I have agreed with the applicant's interpretation of the policy in the substantive appeal, the Council have substantiated their reasoning for refusing the application against it within the Officer's Report and the appeal statement. Consequently, I do not find that the Council have acted unreasonably in this regard.
9. The applicant also suggests that the Council have exhibited a conservative stance towards proposed development at the property, as there is a history of a refused application for a single storey extension being allowed at appeal. I am satisfied, however, that the Council considered the proposal before me on its merits and have substantiated their reasoning through the officer's report and appeal statement.

Conclusion

10. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs should therefore be refused.

Scott Britnell

INSPECTOR