
Costs Decision

Site visit made on 8 June 2021 by Hannah Ellison BSc (Hons) MSc MRTPI

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2021

**Costs application in relation to Appeal Ref: APP/A5270/W/21/3269925
Land rear of 167 Lynton Road, Acton, London W3 9HN**

- 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 Sunnie Matharu for a full award of costs against the Council of the London Borough of Ealing.
 - The appeal was against the refusal of planning permission for part demolition of existing buildings and conversion to a self-contained studio flat, with associated landscaping and cycle parking.
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Decision

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

Procedure

2. An Appeal Planning Officer has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons

3. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, 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.
4. The Guidance 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. 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.
5. The applicant's case for seeking an award of costs is grounded in substantive matters, specifically that the Council's assessment of the proposed development was flawed as it described the proposal as a new build development and referenced inaccurate measurements.
6. I note the discrepancies in the measurements of the proposal used by both main parties and I also note, within the description of the proposed development section of the officer report, the reference that the existing outbuildings are to be demolished. Nevertheless, the officer report goes on to

make a full assessment of the principle of the development and its effect on design, appearance and siting. It is sufficiently clear to me that the Council assessed the proposal against the site as it currently exists and the submitted plans, and its objections, which are clearly supported with substantive reasons and interpretation of policy, centre around the effect of the proposed development on the character and appearance of the wider area. As such, I find that the Council's failure to accurately describe the development would not have resulted in a different decision.

7. Accordingly, I note there are fundamental disagreements between the parties relating to the merits of the proposal and to my mind, those matters were unlikely to be resolved during the application process and thus could only be dealt with at appeal. Therefore, the appeal process was unavoidable, and consequently I find that the Council has not acted unreasonably and thereby caused the applicant to incur unnecessary or wasted expense. A claim for costs is not therefore justified and accordingly it is recommended for refusal.

H Ellison

APPEAL PLANNING OFFICER

Inspector's Decision

8. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree that the application for an award of costs is refused.

RC Kirby

INSPECTOR