



Costs Decision

Site visit made on 13 July 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2021

Costs application in relation to Appeal Ref: APP/Q5300/W/21/3269222 7B Golf Ride, Enfield, EN2 9DA

- 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 and Mrs M Newport for a partial award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for redevelopment of the site by the erection of three dwellinghouses.
-

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 where the unreasonable behaviour has directly caused unnecessary or wasted expense in the appeal process. The partial application for costs is made in respect of the Council's second and third reasons for refusal on both procedural grounds, relating to the appeal process, and on substantive grounds, relating to the planning merits of the appeal.
3. I note that the Council did not respond within requested timescales to emails sent on my behalf regarding publication of the London Plan 2021. However, the emails were an invitation to the parties to provide comments, and did not impose any absolute requirement to respond. In any event, the evidence before me does not demonstrate how the delay in the Council's response has caused the applicants unnecessary or wasted expense in the appeal process.
4. The applicants also point to the Council's failure to comment on the planning obligation and Sustainable Drainage Systems (SuDS) Report submitted as part of the appeal. I have found that these documents would address the Council's second and third reasons for refusal. I accept that the SuDS Report provides specialist and technical information, but as set out in my Appeal Decision, it does not materially alter the scheme. Had the SuDS Report been provided prior to determination, the Council would have needed to consider it, and has offered no clear justification for not doing so at appeal stage. Similarly, while the Council suggest that the applicant's planning obligation would be required to be thoroughly reviewed, it has offered no compelling explanation of why it has not done so. In my view, the Council's failure to engage with the applicant's appeal stage evidence was unreasonable.
5. Nevertheless, the SuDS Report and planning obligation were not before the Council at the time of its decision. Its evidence clearly explains the reasons why in the absence of this information the proposal was unacceptable with

reference to relevant policies of the development plan. I do not therefore find that its second or third reasons for refusal amount to vague or inaccurate assertions nor that it has failed to substantiate their inclusion on the decision.

6. Earlier communication by the Council of its position on these matters could have allowed the applicants to respond before the application was determined rather than as part of the appeal. However, given my findings above, there would still have been a need to address these matters, and for the applicants to meet the costs of preparation of comparable evidence to the submitted SUDS Report and the planning obligation. The applicants' appeal evidence beyond these documents is straightforward, involving a short rebuttal and references to their submission and content, both initially and in response to the Council's evidence. On that basis, it seems to me that there has been little extra work involved in responding that it can be regarded as '*de minimis*'. In effect the appellant has quickly and easily rebutted the Council's position without wasting additional expenditure.
7. Although I have found that the Council has behaved unreasonably in failing to engage properly with the applicants' appeal stage evidence, I find that the unreasonable behaviour has not caused unnecessary or wasted expense, as described in the PPG. Consequently, for the reasons given above, the application for a partial award of costs is refused.

J Bowyer

INSPECTOR