
Costs Decision

Site visit made on 3 August 2021

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2021

Costs application in relation to Appeal Ref: APP/N1920/W/20/3263111 1 Loom Lane, Radlett, WD7 8AA

- 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 G Temple for a full award of costs against Hertsmere Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing house and outbuildings to facilitate construction of 2 x dwellings (1 x 4 bed & 1 x 5 bed) to include accommodation at basement level with associated landscaping and parking (revised application to 18/2261/FUL).
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expenses in the appeal process. It sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. The PPG is also clear that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The PPG¹ provides examples of behaviours that risk an award of costs. With reference to those examples, the applicant contends that the Council has behaved unreasonably in the following ways:
 - Failure to produce evidence to substantiate each reason for refusal on appeal;
 - Vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and
 - Not determining similar cases in a consistent manner.
4. With regards to the first reason for refusal, the Council's submissions clearly reference the important characteristics of the Radlett South Conservation Area (RSCA), the site's contribution to that character, and set out how the development would result in harm. The matters of concern require an exercise

¹ PPG Paragraph: 049 Reference ID: 16-049-20140306 - Revision date: 06 03 2014

of planning judgement and I have found favour with the Council's stance in terms of the proposed development's effect upon the RSCA. I find the Council's case includes an assessment that is neither vague nor generalised. It sets out clearly how the Council considers the development would not be in accordance with both local and national planning policy.

5. The second reason for refusal is consistent with the advice of the Council's Tree Officer regarding the risk that encroachment into the root protection area of retained trees will result in damage to those trees in the long term. The applicant's submitted Arboricultural Impact Assessment advises that the incursion into the RPA of T8 is significant and acknowledges the potential impacts on the tree's health. Whilst I have taken a different view to the Council due to the tree protection and working methods proposed, the Council's refusal reason was based on a reasoned, substantive and clear planning judgement.
6. The Council has confirmed that the Emergence and Activity Bat Survey submitted with this appeal has addressed its third reason for refusal. I appreciate that a lack of communication regarding this refusal reason is a source of frustration for the applicant. Notwithstanding this, the information is reasonably required prior to the demolition of a dwelling in order to properly assess the effect of the proposal. As such, the Council's behaviour has not, in this regard, been unreasonable or led to unnecessary or wasted expense in the appeal process.
7. I have had regard to the evidence of the applicant regarding the consistency of the Council's decisions and advice. Whilst the pre-application² correspondence before me indicates some delays in the Council providing feedback, substantive concerns regarding the proposals are clearly set out in the Council's written pre-application response. With regards to the planning permissions³ granted at no 6 Loom Lane, the circumstances of those earlier permissions are not directly comparable with those that apply in this appeal. The proposals at no 6 are of a significantly different design, layout, and context in terms of building line, to the current proposals. The Council has not asserted that the principle of two dwellings on the appeal site is unacceptable but has assessed each development on its own merits. As such, I am not persuaded that the council has determined similar cases inconsistently.

Conclusion

8. I therefore conclude that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.
9. For the reasons above, and having regard to all other matters raised, an award for costs is therefore not justified.

S D Castle

INSPECTOR

² LPA ref: 19/0090/PA

³ LPA refs: 16/2325/FUL & 18/2245/FUL