



Costs Decision

Site visit made on 8 June 2021

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Costs application in relation to Appeal Ref: APP/Y5420/W/21/3267332 57-59 West Green Road, Tottenham, London N15 5DA

- 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 Gulfraz Taj (Taj Partners LLP) for a full award of costs against the Council of the London Borough of Haringey.
 - The appeal was against the refusal of planning permission for development originally described as application under Section 73A of the Town and Country Planning Act 1990 for the alterations in connection with conversion of three flats into four.
-

Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the PPG) advises that irrespective of the outcome of the appeal, costs can be awarded where the unreasonable behaviour of a party has caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG sets out circumstances where the behaviour of a local planning authority may give rise to a substantive award against them. These include failure to produce evidence to substantiate a reason for refusal on appeal, and making vague, generalised or inaccurate assertions about a proposal's impact.
4. In my accompanying appeal decision, I concluded that the proposal was unacceptable having regard to all the available evidence. The Council had adequately substantiated their first and second reasons for refusal relating to the failure to comply with minimum space standards, and harm to the Clyde Circus Conservation Area. Accordingly, the Council has not behaved unreasonably in this regard.
5. Nonetheless, in relation to refusal reason No 3, it was the Council's position that the proposal would result in loss of privacy to adjoining neighbours from a proposed roof terrace, despite it being evident that the application submitted to the Council did not include a roof terrace. Whilst a roof terrace may have formed part of the Council's action against unauthorised development at the site, it was not open to the Council to impose such matters on the application for planning permission sought. I found that there would be no loss of privacy to neighbours. This reason for refusal is therefore an inaccurate assertion about the proposal's impact and has not been substantiated.

6. Accordingly, I am of the view that unreasonable behaviour has been demonstrated on the part of the Council in relation to refusal reason No 3, and has resulted in the applicant's unnecessary expense in responding to it as part of the appeal.

Conclusion

7. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in relation to refusal reason No 3, and that a partial award of costs is justified on these grounds only.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Haringey shall pay to Mr Gulfraz Taj (Taj Partners LLP), the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in responding to the matters within the Council's third reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to the Council of the London Borough of Haringey, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Caines

INSPECTOR