



Costs Decision

Site visit made on 19 October 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Costs application in relation to Appeal Ref: APP/U5360/W/21/3277235 75 Hackney Road, Hackney, London E2 8ET

- 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 Jimmy Mowatt for a full award of costs against the London Borough of Hackney.
 - The appeal was against the refusal of planning permission for erection of a new mansard to townhouse, rebuilding of infill building to rear of site including one additional storey and new basement, the repair and renovation of the townhouse - internally and externally, and change of use from part retail part residential (Class A1 and C3), to part retail part commercial offices (Class A1 and B1).
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG sets out scenarios when a local planning authority's handling of the planning application prior to the appeal may lead to an award of costs.
4. I appreciate that the appellant has undertaken pre-application consultation with the Council. However, informal discussions and advice given before an application is determined is given without prejudice and cannot pre-determine the outcome of the application.
5. The application was not validated for several months. Whilst I understand the sense of frustration this delay would have had, it appears that this was caused by an unprecedented event, in the form of a cyber-attack. As such, it is unreasonable to conclude that the Council acted unreasonably in this respect, based on the information before me.
6. I note the appellant's comments in respect of discussions and feedback from the conservation officer. However, the decision is one which is a matter of planning judgement. Whilst the Council have taken a different view from that believed to have been indicated by the conservation officer, they are not duty bound to follow the advice of their officers, if there are sufficient planning grounds to come to a contrary view.

7. In the planning judgement, it appears to me that having regard to the development plan, national planning policy and other considerations, the development proposed should reasonably have been permitted. However, the Council has substantiated its position rather than vague, generalised or inaccurate assertions. As a result, it follows that I do not agree that the Council acted unreasonably in this case.
8. The appellant has also expressed concerns regarding a lack of communication with the Council and that the application was refused without consultation. Whilst this must have caused the appellant some concern, I find nothing to suggest that a decision was not reached on the basis of the merits of the proposal, as submitted by the applicant.
9. The appellant is seeking to claim expenses from conceptual/design stage to the appeal. The PPG is clear that an award of costs relates to costs associated with the appeal which includes the time spend by appellants and/or their agents in preparing for an appeal or providing advice. Parties are expected to meet their own expenses and claims relating to the period during the determination of the appeal cannot be claimed. Therefore, there is no basis to award costs associated with the preparation, submission, and consideration of the application.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, an award of costs is not justified.

B Thandi

INSPECTOR