



Costs Decision

Site visit made on 17 February 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10th March 2022

Costs application in relation to Appeal Ref: APP/Y5420/W/21/3273682 62 Arcadian Gardens, Wood Green, London N22 5AD

- 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 Mrs M Larijani (KIKS Group Ltd) 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 the change of use of property from a dwelling (C3 use) to a 9 person house in multiple occupation (sui generis use) and the construction of rear dormer extension.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 expense in the appeal process. The PPG states that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal. It further states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. The applicant has made both procedural and substantive claims.
3. In terms of the procedural claim, the applicant states that the Council acted unreasonably in failing to provide consultation response from its Transportation and HMO departments. However, this occurred prior to the determination of the application by the Council. Thus, it has not been demonstrated that the Council has behaved unreasonably in relation to procedural matters at the appeal, as set out in the PPG.
4. While the Council may not have provided the responses at application stage when requested, it is clear there was active engagement on this point. The content of the responses was incorporated in the reasoning of the Officer's Report, which clearly explained the reasons for refusal. I do not consider that the appeal or other expenses could have been avoided by provision of these responses at application stage.
5. In terms of the substantive claims, the applicant states the Council acted unreasonably in giving weight to Policies HSG6 and HSG11 of the now outdated Haringey Unitary Development Plan 2013, , and in failing to substantiate its reasons for refusal by giving vague, generalised and inaccurate assertions.

6. It is acknowledged that the Council behaved unreasonably in relying on outdated policy to demonstrate that the proposal would result in the unacceptable loss of family accommodation. However, I am not convinced that this has resulted in any unnecessary or wasted expense. The compliance of the proposal with the specific requirements of these policies was not the only element in the reason for refusal. The Council also referred to current Policy DM17 of the Development Management DPD, July 2017 and Policy SP2 of Haringey Council's Local Plan 2013.
7. In addition, while it is clear from my decision that I do not agree with the Council that the proposal would result in the unacceptable loss of a family sized dwelling, this was not the only reason for refusal. On the basis of the information provided it seems reasonably unlikely that the appeal could have been avoided even if the Council had correctly placed no reliance on the outdated policies of the Haringey Unitary Development Plan 2013.
8. Finally, I do not agree with the applicant's assertion that the Council has failed to substantiate its reasons for refusal. The Council's evidence is clear that the proposal has been refused as it was not considered to comply with current policy, and reasoning of this stance is provided. In this sense, the Council's overall case is clear, precise and backed up with evidence that directly addresses the reasons for refusal. While similar applications have been granted planning permission by the Council, it is not unreasonable that each case be dealt with on its own specific merits.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Planning Practice Guidance has not been demonstrated, and an award of costs is not justified.

C Rafferty

INSPECTOR