



Costs Decision

Site visit made on 19 January 2022

by A. J. Boughton MA(IPSD), Dip.Arch, Dip.Conservation, RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2022

Costs application in relation to Appeal Ref: APP/M5450/D/21/3277864 26 Village Way East, Harrow HA2 7LU

- 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 J Shanmuganathan for an award of costs against The London Borough of Harrow.
 - The appeal was against the refusal of The London Borough of Harrow to grant planning permission for first floor side extension and two storey rear extensions; conversion of first and second floors to four flats (2x 1Bed and 2x Studio); erection of two-storey office building (with undercroft parking) at rear.
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Decision

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

Preliminary Matter

2. The lengthy submission by the applicant refers to preceding decisions for similar proposals on this site but has not expressly identified what he considers to be unreasonable behaviour on the part of the Council other than alleging inconsistency; I have addressed the application accordingly. In the interests of clarity I also note that the Council suggest that the application for costs has an inappropriate retrospective element relating to a previous refusal P/2504/20. However, although that matter has not been subject to an appeal and, with other applications referred to, is not within the scope of this consideration, given the close similarity of the proposals and the background of dispute and decision-taking, it would be relevant to the question of behaviour of the parties.

Reasons

3. The Planning Practice Guidance advise 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.
4. The applicant has provided lengthy records of interactions with the Council which include a pre-application meeting in March 2021 after the refusal in November 2020 of a scheme almost identical¹ to that here appealed (Ref:P/2504/20)². The Council's response to that meeting on 20 April 2021 included a suggested 'building envelope diagram' with supporting explanations indicating this could address their concerns as to building form.

¹ Having regard to the scope of refusal reasons the differences between the submitted proposals are de-minimis.

² 'the 2020 proposal'

5. According to the costs application, this advice was rejected on the basis that the 'single building' proposal had already been refused in 2015³, that it would 'lead to another refusal' also that the second building with undercroft was necessary to address flood risk issues. However, from the drawings provided it is apparent that what the Council suggested and what appears in the 2015 proposal are not comparable, particularly with regard to the extent of development which is significantly reduced and, therefore, likely to be less problematic with regards to addressing flood risk. Notwithstanding the applicant's comments it appears to me the Council have attempted to give advice which leads towards an acceptable proposal. However, it does not seem the applicant made any serious attempt to consider that advice or to justify its rejection with a technical response on these substantive points.
6. Whilst there have been a number of unsuccessful attempts to obtain permission for the development of this site that does not place an obligation on the planning authority to grant permission if the reasons for not so doing are justified in accordance with policy and guidance.
7. The Town and Country Planning (Development Management Procedure) (England) Order 2015 makes clear that applications for permission should be accompanied by such plans as are 'necessary to describe the development' placing the burden of providing such information on the applicant. Notwithstanding the substantive issues as to the form and layout of the proposed development, consideration of the 2020 and 2021 applications indicates that the opportunity to reduce the scope of other differences between the parties was not taken by the applicant and that the Council have shown a consistent approach to determining the proposal. Overall I find no evidence of unreasonable behaviour on the part of the Council.
8. I have considered the submissions of both parties and the justification for each refusal reason. Overall, whilst it is apparent that the applicant's submission of a near-identical proposal to the 2020 application arose from frustration at lack of progress, it is, nevertheless, that decision which has led to this appeal and not behaviour on the part of the Council. It is hardly surprising that the result of two similar planning applications should be broadly similar refusal reasons.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Andrew Boughton

INSPECTOR

³ P/0020/15