



Costs Decision

Site visit made on 9 May 2022

by Rebecca Thomas MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 July 2022

Costs application in relation to Appeal Ref: APP/W5780/W/22/3290622 27 Parkway, Seven Kings, Ilford IG3 9HS

- 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 & Mrs Zahed and Fozia Mahroof for a full award of costs against the London Borough of Redbridge.
 - The appeal was against the refusal of planning permission for Erection of front and side boundary wall.
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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 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. Such examples include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
3. The applicants' cost application indicates that they consider unreasonable behaviour of the Council caused an unnecessary appeal, and additional work arising from this. The matters raised by the applicant include that the proposed development whilst conflicting with the guidance set out in the Bungalow Estate Conservation Areas Design Guidance Policy, it would meet various other criteria. Furthermore, the applicants have indicated that the Council had provide no evidence to justify the assertion that the proposed front wall would be unsympathetic to the character of the locality with the prevailing pattern of development within the Bungalow Estate Conservation Area.
4. The reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly sets out the policies of the Redbridge Local Plan and adopted Bungalow Estate Conservation Area Design Guide SPD and the London Plan with which the proposal would conflict. The reason has been adequately substantiated by the Council in its Officer Report. The Officer Report demonstrates how the proposal would cause harm to the overall character and appearance of the Bungalow Estate Conservation,

using the evidence submitted by: the appellant, the Council's observations; those of statutory consultees; and third parties.

5. Whilst I appreciate that the outcome of the application will have been a disappointment to the applicant, the Local Planning Authority were not unreasonable in coming to that decision, and indeed following consideration of the application on its merits alone, I have concurred with the Council. The Officer Report sets out an assessment of the indicated harm and how this would conflict with relevant adopted planning policies.
6. The costs application also sets out concern about the impact of the existence of third party comments relating to a boundary dispute. Whilst this forms part of the application and appeal documentation, the Council has made it clear that only material planning considerations have been taken into account in determination of the application; and that civil matters do not form part of the planning assessment. I am clear which elements of the appeal documentation comprise material planning considerations and have also set this out in my decision.
7. The applicants have also expressed concern regarding the lack of communication from the Council during the application process, including the lack of opportunity for pre-application discussions due to the Covid-19 pandemic restrictions. Whilst this must have caused the applicant 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 appellant.
8. I sympathise with the applicant's frustrations over the opportunity for pre-application engagement or lack of communication during the Council's determination of the planning application, however Planning Practice Guidance states that "*costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding*"¹. The ensuing lack of communication is regrettable nonetheless I also find no substantive evidence that the appellant incurred any additional expense as a result of the delays, which was made on the basis of refusal of permission, and not non-determination.

Conclusion

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

Rebecca Thomas

INSPECTOR

¹ PPG Paragraph 033 Reference ID: 16-033-20140306