



Costs Decision

Site visit made on 16 August 2022

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2022

Costs application in relation to Appeal Ref: APP/Q5300/W/22/3290633

1 - 44 Avalon Close, Enfield EN2 8LR

- 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 Tas Alexandrou (Southern Territory (UK) Ltd) for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for the construction of a part 3rd floor and 4th floor to both existing blocks to provide a total of 8 units (4 on each block) comprising 4 x 2 bed split level units, 2 x 2 bed flats and 2 x 1 bed flats; 8 additional car parking spaces, a bicycle store for 16 bikes plus 2 Sheffield stands and additional bins (to be located within the existing bin shed).
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Decision

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

Reasons

2. The Planning Practice Guidance 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. I have noted that Council Officers recommended approval of the planning application. The Council Officers' Report provided detailed reasons as to why, in their opinion, the development was acceptable. This included an assessment of the effects of the development upon the privacy of existing residents and a comparative analysis with a previous rendition of the scheme which had been dismissed at appeal.
4. However, the assessment of the effects of the development upon privacy is one which is a matter of judgement. Council Members were entitled not to accept the professional advice of Officers in this regard so long as a case could be made for the contrary view with evidence produced to substantiate the reason for refusal.
5. The Council's reason for refusal and submitted evidence is clear that the harmful loss of privacy for existing residents would be as a result of the proposed access circulation and façade design contained within the development. It is also clear with which development plan policies the Council consider that the proposal would be in conflict.

6. The Council have provided further detail in respect of the views expressed by Council Members at the time the planning application was determined. This detail includes that Council Members had concerns that the design of the scheme would cause an unacceptable loss of privacy due to the window openings above the third floor and as a result of stairwell design.
7. It will be seen from my Appeal Decision that I disagree with Council Members that windows proposed to the façade of the flats would cause any unacceptable loss of privacy. However, whilst no entrance doors to the proposed flats would be contained within the third floor, I find that the development would cause an unacceptable loss of privacy as a result of the revised third floor staircase arrangement and associated access circulation. My conclusions in this regard therefore have substantive resonance with the concerns expressed by Council Members and submitted in the evidence.
8. Furthermore, the third floor arrangements of the proposed development differ from those subject to the previous appeal. Consequently, the effects necessitate assessment on their own merits. Therefore, on the balance of probability, I do not find that the Council have persisted with the same objections to the scheme which the Inspector has previously indicated to be acceptable.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

H Jones

INSPECTOR