



Costs Decision

Site visit made on 23 August 2022

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2022

Costs application in relation to Appeal Ref: APP/F5540/W/21/3286340 42-43 The Little School, Boston Park Road, Brentford, TW8 9JF

- 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 Ms H Randeva for a partial award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against the refusal of planning permission for a proposal described as *"retention of existing nursery use and alterations to existing nursery building including upward extension of one and a half storeys to deliver six new residential units, alterations to front car park and access pathway, new landscaping, cycle parking, refuse store and other alterations"*.
-

Decision

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

Reasons

2. 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. The appellant submits that the Council has acted unreasonably in relation to each of its reasons for refusal. Moreover, it is submitted that the Council based its refusal of permission on a desire for a comprehensive redevelopment of the site, which the appellant regards as falling outside of the scope of s70(2) of the Town and Country Planning Act (1990), as amended.
4. The Council's first reason for refusal related to the effect of the development on the character and appearance of the area. In this regard, the Council highlighted a number of concerns regarding the proposed design, including its height, bulk, use of materials, access arrangements, and its relationship to the existing building. These are, to an extent, matters of planning judgement and the Council has presented a detailed case to substantiate its reason for refusal. It did not act unreasonably in relation to this matter.
5. The Council's Delegated Report refers to the potential for a comprehensive redevelopment of the site. However, this consideration is mentioned only in the context of the perceived design flaws of the current proposal, and it does not feature in any of the 3 reasons for refusal. It is therefore not clear that this formed the basis for refusing permission. Moreover, the Council has previously granted permission for a vertical extension to the building (Ref

- 00134/42-43/P14), which is at odds with the suggestion that it is unwilling to consider such an approach.
6. With regard to the second reason for refusal, the Council has again provided a detailed justification in support of its position. In particular, it highlighted that someone of average height or above would be able to see over the 1.4 metre high obscure glazing and balustrades into the rear gardens of Nos 41a-d. Whilst the characterisation of the effect on privacy and outlook as “severe” is disputed, that is a matter of professional judgement. In any case, I concur that the level of harm that would arise is sufficient to warrant refusal of the scheme. In terms of noise and disturbance arising from comings and goings along the side boundary of No 41d, the proposed apartments would generate pedestrian movements throughout the day and into the evening, including at times when the nursery is closed. It was not unreasonable for the Council to identify this concern, and it has substantiated its position in this regard. Moreover, the submitted Noise Assessment Report (Kimber Acoustics, 2020) does not appear to address noise or disturbance arising from this source.
 7. In relation to the third reason for refusal, the Council highlighted that some proposed units would have 1.4 metre high obscure glazing/balustrades to all habitable room windows. I concur that this would provide an unacceptably poor standard of accommodation for future occupiers. The Council’s concerns regarding the proposed communal amenity space were also substantiated, and it is unclear whether the standards set out at Figure SC 5.2 have been considered. Finally, the reference to Policy D12 of the London Plan was based on the perceived inadequacies of the internal layout, including the front door and internal staircase (covered under part A of the policy), and not on the absence of a Fire Statement (covered under part B). This matter is not addressed in the submitted Fire Safety Strategy, and the Council therefore did not act unreasonably in this regard.
 8. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR