



Costs Decision

Site visit made on 16 August 2022

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14th October 2022

Costs application in relation to Appeal Ref: APP/T5150/W/3289220 6 Deerpark Road, London NW2 4DE

- 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 Kunverji Arjan Kerai, Shree Swaminarayan Temple for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was against the refusal of planning permission for proposed conversion of single dwellinghouse into 5x self-contained flats works including, loft conversion, rear dormer window and 3x side rooflights, relocation of front entrance door, removal of window and replacement of door with new window to front elevation, subdivision of rear garden, provision of off-road parking, cycle and waste storage and associated hard and soft landscaping.
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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. The PPG¹ advises awards against a local planning authority may be substantive or procedural.
3. It is not uncommon for planning officers to leave at short notice, and whilst it is unfortunate the applicant or agent was not informed of the change prior to it happening, the Council are not obliged to advise of staff changes. Nor is it unusual for case officers to change to manage workloads. Whilst I note the slight delay, it was not excessive, and there is an introductory email from the later planning officer on 7 September explaining that they had received the case and refer to requested photographs and representations which illustrates there was already an understanding of the case.
4. The applicant's email in response on 7 September, clearly sets out the issues and response to dated emails from the first case officer. The Council also highlights in their cost rebuttal, that a team leader was also able to fully brief the later officer. These point toward the case officer being briefed well, and to my mind, would allow a planning officer to acquaint themselves with an application quickly. Notwithstanding that the appellant considers this is too short a time frame to be able to do so before the decision was issued, it is not

¹ Paragraph: 027 Reference ID: 16-027-20140306

improbable that the latter case officer was able to consider the case fully, or that given the first case officer had only requested certain elements, that other issues were resolved or acceptable.

5. Article 35 of the Development Management Procedure Order 2015 requires the local planning authority to include on decision notices a statement explaining how they have dealt with the application in a positive and proactive manner. In this case the decision notice states that the scheme did not comply with its guidance and no pre application discussions were entered into.
6. It is clear from the email of 7 September 2022, that an extended period for the application would not be forthcoming unless there was a positive outcome for the application.
7. The Council advises that given previous refusal reasons the issue of the ceiling height to flat 5, which was at the crux of the refusal, would have been apparent to the applicant. Although this is disputed, it would not be uncommon for the Council to determine the application without further negotiation if it was unacceptable.
8. Whilst a more proactive early response, given the previous cases, could have resolved the issue of the layout across all the floors and potentially achieved positive improvements, it is acknowledged and set out in the PPG² that pre-application engagement offers the potential to improve the efficiency and effectiveness of the planning application system, and this was not employed by the applicant.
9. The Council's reason for refusal is clear and references the policies at the time. It has substantiated its reason for refusing the application. The Cost rebuttal does not introduce any further substance to the original case.
10. The PPG advises an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. I find no substantive evidence that the appellant incurred any additional expense.

Conclusion

11. For the reasons set out above I conclude that, I find that no wasted or unnecessary expense has been incurred by the appellant in the appeal process as described in the PPG. I conclude therefore, that the application for an award of costs should be refused.

K Williams

INSPECTOR

² Paragraph: 001 Reference ID: 20-001-20190315