



Costs Decision

Site visit made on 13 September 2022

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2022

Costs application in relation to Appeal Ref: APP/Q5300/W/21/3283304 Bush Hill Park Bowls Tennis and Social Club, Abbey Road, Enfield, EN1 2QP

- 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 Davidian of 2DD for a full award of costs against the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for removal of surplus tennis courts for subdivision of site into 4 plots, erection of a terrace block comprising of residential dwelling flats.
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Decision

1. The application for an award of costs is allowed in part in the terms set out below.

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 failed to substantiate either of its reasons for refusal and has prevented or delayed development which should clearly have been permitted.
4. The first reason for refusal related to an alleged lack of clarity on the purpose for which funds would be obtained to support improvements to the Club. Other than the text of the Decision Notice, no further explanation for this reason for refusal has been provided. In this regard, I note that the appellant submitted a list of the improvements which the development would cross-subsidise at application stage. Notwithstanding my concerns regarding the adequacy of the submitted planning obligation, this matter is clearly capable of being addressed by an appropriately worded obligation, as is set out in the Officer Report to Planning Committee. In these circumstances, it was clearly unreasonable for the Council to refuse permission on this ground.
5. The second reason for refusal related to the effect of the development on the character and appearance of the conservation area. Whilst the Council has only provided the text of its Decision Notice in support of this, I note that it sets out some detailed concerns regarding the scale and massing of the development. I also have a detailed case before me regarding the effect on the conservation area from interested parties, including the Bush Hill Park Conservation Area Study Group. There is a full case before me in this regard,

which the appellant has had to address. No unnecessary or wasted expense has therefore been incurred in relation to this reason for refusal.

6. My attention has also been drawn to a number of comments that were purportedly made by Councillors on the Borough's Planning Committee when the application was determined. However, the reported comments are based on notes and may not be a verbatim record of what was actually said. In any case, many of these are not reflected in the reasons for refusal, and so no unnecessary or wasted expense has been incurred in addressing these matters.

Conclusion

7. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the London Borough of Enfield shall pay to Mr Davidian of 2DD, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the Council's first reason for refusal only; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to the London Borough of Enfield, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Hatfield

INSPECTOR