The Planning Inspectorate

Costs Decision

Site visit made on 19 October 2022

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2022

Costs application in relation to Appeal Ref: APP/ M5450/W/22/3298513
26 Butler Avenue, Harrow HA1 4EH

- 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 No.12 Investments Limited for a full award of costs against the Council of the London Borough of Harrow.
- The appeal was against the refusal of planning permission for the conversion of a single dwelling to three flats, with front landscaping, bin storage, cycle storage to the rear and a ground floor rear extension.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG), at paragraph 030, 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. Paragraph 049 of the PPG lists examples of unreasonable behaviour by local planning authorities. The appellant's application for costs comprises four claims from this list:

   - preventing or delaying development which should clearly be permitted;
   - failing to provide evidence to substantiate each reason for refusal;
   - vague, generalised or inaccurate assertions about a proposal's impact; and
   - refusing planning permission on a planning ground capable of being dealt with by a condition/s.

4. Although the officer's report provided a recommendation for approval, subject to conditions, the committee voted to refuse the application. While I do not agree with the committee's decision, it is not bound to accept the advice or recommendations from Council officers. Therefore, I do not consider that the Council acted unreasonably in respect of the claim that they prevented development which should clearly be permitted.

5. In terms of the second claim, the sole issue contained within the Council's reason for refusal relates to the effect of the proposed development on the character and appearance of the area. However, the Council have not provided a statement of case during the appeal process to substantiate the reason for refusal but instead amplified their case within the costs rebuttal. As the

appellant has had the opportunity to respond to the costs rebuttal, I have taken this information into account when determining the appeal. I find that the approach adopted by the Council to be unhelpful and is, therefore, unreasonable.

6. Turning to the third claim, whilst limited evidence has been provided, I do not consider the information submitted by the Council to be vague, generalised or inaccurate, irrespective of my decision. The decision notice is complete, precise, specific and relevant to the application, clearly stating the development plan and national planning policies the proposed development would conflict.

7. On the final claim, the appellant considers the Council's reason for refusal, relating to details of storage of refuse and landscaping, are all capable of being addressed through planning conditions. The sole reason for refusal relates to the Council's view that the forecourt is not of sufficient size to accommodate the appropriate number of bins and screening for the flats. As I have determined that the 200.2 rev 18 – Ground Floor Plan as Proposed provides sufficient detail to demonstrate the area is big enough for the required number of bins. It also clearly shows suitable screening features. Notwithstanding this, and as highlighted in the planning officer's report to committee, a detailed landscaping scheme could easily be conditioned as part of the planning permission.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

9. 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 Council of the London Borough of Harrow shall pay to No.12 Investments Limited, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

10. The applicant is now invited to submit to the Council of the London Borough of Harrow, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Juliet Rogers

INSPECTOR