
Costs Decision

Site visit made on 3 November 2022

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2022

Costs application in relation to Appeal Ref: APP/L5810/W/21/3281420 13-17 White Hart Lane, Barnes London SW13 0PX

- 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 White Hart Property Limited for a full award of costs against Richmond Upon Thames London Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for construction of a single storey roof extension and part reconfiguration of existing building to provide 5 residential units.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. It adds that examples of unreasonable behaviour by local planning authorities include:
 - preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
 - refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.

4. The evidence indicates that despite concerns being raised about the height of the proposal at pre-application stage by the Council, it subsequently communicated to the Applicant that the proposal was potentially a policy compliant scheme provided an affordable housing contribution was secured and later that the senior planner would be making a recommendation of support. The Council then confirmed that it would refuse the application. I also note the significant periods of delay partly due to pandemic restrictions as well as evidence regarding requests to the Council for meetings and phone calls.
5. However, as stated by the Applicant, had the Council expressed the view that the scheme was fundamentally unacceptable earlier in June, July or August 2020, the Applicant would have pursued an appeal. Therefore, even if this amounted to unreasonable behaviour, it would have, in any event, led to an appeal and associated expense.
6. I acknowledge the Applicant's evidence including supporting Heritage Statement. However, the Council's appeal statement clearly articulates its concerns with respect to the effect on the conservation area and living conditions of neighbouring occupiers and states the development plan policies that the proposal would conflict with, in its view.
7. Accordingly, I consider that the Council has not failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided or issues being narrowed. I have found that the Council had reasonable concerns about some of the impact of the proposed development. The Applicant had to address those concerns and the evidence of third parties in any event.

Conclusion

8. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Sabu

INSPECTOR