



Costs Decision

Site visit made on 2 November 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2022

**Costs application in relation to Appeal Ref: APP/B5480/W/21/3287483
Flats 1-10, Cheltenham Court, 20 Haydock Close, Hornchurch, Essex
RM12 6EA**

- 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 Raj Mahal for a full award of costs against the Council of the London Borough of Havering.
 - 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 conversion of existing 2 x 2-bed flats on third floor to 4 x 1-bed flats involving installation of Juliet balcony and double doors to each rear dormer.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 refers to a number of matters which they consider represents unreasonable behaviour on behalf of the Council.
4. The appellant submits that the Council made an error when validating the application, which related to the need for an application fee. However, although this led to a delay in progressing the application, the Council was able to address this matter as part of the application process. In any event, the evidence suggests that this arose from an error by the appellant where a fee exemption was claimed although this was not actually applicable. The e-mail referred to in the appellant's final comments on costs does not demonstrate that the appellant was following the Council's advice on this matter.
5. The appellant also refers to a number of basic errors in the consideration of the application. However, the measurement of floor areas is a minor matter of detail which could be clarified through the application process. Advice from the Council on matters of privacy from balconies was not contradictory, as I have disagreed with the appellant's evidence on this matter and it is therefore reasonable that the Council required clarification. Although the Council has not referred to privacy as a potential reason for refusal, it is not unreasonable to raise this issue as part of the consideration of the application.

6. Reference is also made to the Council not meeting deadlines. However, it is clear that there were a number of issues with the proposal and that both the Council and the appellant were attempting to address these. This included the submission of amended details which would need time for the Council to consider.
7. Furthermore in relation to timescales, the Council has emphasised that the appellant did not seek pre-application advice. There were a number of issues in respect of the proposal, which had to be addressed through the application process. This added to the timescale for the consideration of the application. Even though the appellant had to contact the Council a number of times for a response, I do not consider that the behaviour of the Council led to unreasonable delays in the consideration of the application.
8. The appellant also refers to delays resulting in the proposal being considered against the policies of the new Havering Local Plan 2021 (the Local Plan). However, the Local Plan would have been at an advanced stage of preparation at the time of the submission of the application, and on that basis it is likely that the policies of the emerging Local Plan would have carried significant weight even though it had not been formally adopted. I have concluded that the proposal would conflict with a policy of the adopted Local Plan, and it has not been demonstrated that a different conclusion would have been reached in respect of the emerging Local Plan.
9. More fundamentally in respect of costs, the Council has indicated that it would have refused permission for the proposal. I have identified that the proposal conflicts with the Local Plan. There is also no substantive evidence that the proposal would have met the policies of the emerging Local Plan prior to its adoption. Although I have allowed the appeal, this is based on a balanced planning judgement. Whilst I have disagreed with the Council's indicative decision, given the conflict with the adopted development plan I do not consider that the Council's stance is unreasonable. The Council's position has therefore not led to an appeal which could otherwise have been avoided.
10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not therefore justified.

David Cross

INSPECTOR