



Costs Decision

Site visit made on 4 October 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 NOVEMBER 2022

Costs application in relation to Appeal Ref: APP/B5480/W/21/3285364 64 South Street, Romford, London RM1 1RB

- 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 Anthony Solomou of IC Construction for a full award of costs against the Council of the London Borough of Havering.
 - The appeal was against the refusal of the Council to grant planning permission for the replacement of four roof lights on the second floor with four dormer windows on the South Street elevation.
-

Decision

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

Reasons

2. The Planning Practice Guidance ("the 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 PPG sets out examples of behaviour which may give rise to a substantive award against a local planning authority¹; these 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" and;

"Not determining similar cases in a consistent manner."

Within this broader context, there are three specific elements to the applicant's claim.

4. The first of these relates to the appeal site's heritage status and value. The Council has identified it as a Non-Designated Heritage Asset ("NDHA") and the applicant takes issue with the Council's timing of, and approach to, this identification. However, for reasons which are set out in paragraphs 11-15 of my main decision I found the Council's approach to be in line with what the National Planning Policy Framework and the PPD consider acceptable.
5. The Council's officer report also identified the appeal property as being a locally-listed building, although in fact it is not. The Council's description in its evidence of the appeal site as being "along the southern edge of the Romford

¹ Paragraph: 049 Reference ID: 16-049-20140306

Conservation Area” is somewhat inaccurate, given the actual separation (which I found on my site visit to be a walk of a little over a minute). However, the Council’s appeal statement acknowledged the error in respect to the local list, and while its description of the appeal site’s relationship to the Conservation Area was somewhat sloppy (the fact that it is undoubtedly south of the Conservation Area is not at all the same thing as it being on the southern edge of the area), its appeal evidence also stated that the setting of the Conservation Area would not be affected by the proposal. The Council’s case, and the reason for which it refused to grant planning permission, did not significantly turn on either of these points.

6. In relation to the heritage status and value of the appeal site as a whole, the Council’s actions in identifying it as an NDHA were reasonable. Given its overall view of the appeal proposal, it is also apparent that neither its error in initially describing the appeal site as a locally-listed building, nor its broad (and not entirely convincing) interpretation of what constitutes “the edge” of the Conservation Area altered its final assessment of the scheme. To my mind, none of these examples amounts to unreasonable behaviour by the Council in the terms set out in the PPG.
7. The second element of the applicant’s claim relates to the Council’s citing its 2011 *Residential Extensions and Alterations* Supplementary Planning Document (“the SPD”). The appeal site is a mixed-use scheme in a town centre, and therefore not a type of development to which the SPD is specifically addressed. For reasons set out in Paragraph 18 of my main decision, I consider that there were good reasons not to rigidly apply the SPD guidance in this case. However, I also accept that the affected part of the appeal scheme is residential, and the SPD sets out general principles for dormers and other roof alterations which were of some (albeit limited) relevance. Again, the Council’s reference to the SPD does not amount to unreasonable behaviour on its part.
8. Finally, the applicant argues that the Council has already approved a redevelopment which is taller and wider than the original building on the appeal site in the form of the 2015 grant of planning permission², and had ignored the presence of dormer windows on other adjacent and nearby buildings. However, the Council’s reasons related to the specific impact of the proposed dormers on the appeal site and, in particular, the retained façade of the original Post Office building which the Council considers to be the key element of the site’s significance as an NDHA; it reached its view having taken into account the effects of the 2015 permission, and the context of the surrounding area. These matters went to the heart of the main issue in the appeal, and are therefore addressed at some length in my main decision.
9. A more recent grant of planning permission for a louvred rooftop enclosure housing ducting and ventilation infrastructure at the appeal site, to which the appellant drew my attention at “final comments” stage³, relates to a scheme which, on the basis of the information before me, would have been rather less visible in the streetscene than the appeal scheme. Again, to my mind this example is not demonstrative of inconsistency on the part of the Council.
10. While I reached a different conclusion to the Council on the main issue, and subsequently allowed the appeal, this is not indicative of the Council’s

² LPA Ref: P1212.14

³ LPA Ref: P1120.21

assessment of the appeal scheme or its decision being unreasonable. The evidence put before me does not demonstrate that the Council acted unreasonably in the terms set out in the PPG.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Cryan

Inspector