



Costs Decision

Site visit made on 25 October 2022

by C Shearing BA (Hons) MA MRTPI

An Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Costs application in relation to Appeal Ref: APP/W1905/W/22/3291181 262 High Street, Waltham Cross, Hertfordshire EN8 7EA

- 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 D Zafir of 4Z Temple Court Ltd for a full award of costs against Borough of Broxbourne Council.
 - The appeal was against the refusal of prior approval for the erection of two additional storeys above the topmost floor of the property to create flats.
-

Decision

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

Reasons

2. 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. The applicant considers that the Council behaved unreasonably in their consideration of the impacts of the proposal and by having an unsubstantiated reason for refusal. The applicant also alleges that other examples of unreasonable behaviour have occurred.
4. In terms of the transport impacts, the Council referred to the earlier appeal decision for the site which considered this matter. While that appeal related to the refusal of planning permission, rather than prior approval, I do not find its use for comparative purposes was unreasonable given the similarity in the issues involved. Moreover, it was not unreasonable for the Council to consider issues of parking as part of their consideration of transport and highways impacts.
5. The Council accept its second reason for refusal was given in error and was subsequently withdrawn by its statement. Withdrawal of a reason for refusal and failure to substantiate a reason for refusal fall under the examples of unreasonable behaviour specifically referred to in the PPG. In this regard the Council did behave unreasonably.
6. Despite this, given the other reasons for refusal, the appeal could not have been avoided. While it was unreasonable, I do not have evidence that the Council's second reason for refusal resulted in unnecessary or wasted expense beyond that which would have been incurred by the appeal in any event.

7. While the applicant alleges that other examples of unreasonable behaviour have arisen, a case has not been put forward to suggest specifically how the alleged behaviour occurred. Also, the applicant accepts that there are errors relating to the grounds for the costs application as set out in paragraph 2 of their costs application.
8. Overall, I do not find that unreasonable behaviour resulting in unnecessary or wasted expense to the applicant, as described in the PPG, has occurred.

Conclusion

9. Consequently, the application for an award for costs is refused.

C Shearing

INSPECTOR