



Costs Decision

Site visit made on 26 October 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2022

Costs application in relation to Appeal Ref: APP/M5450/W/21/3289938 274-278 Northolt Road, London HA2 8EB

- 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 Parklands Management for a full award of costs against the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for two additional storeys, with a total of 8 no. self contained residential units.
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Decision

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

Reasons

2. The Planning Practice Guidance (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. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes 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.
4. The appellant contends that the Council's assessment of the application was flawed and the unreasonable nature of their decision led to the appeal resulting in unnecessary costs.
5. I acknowledge that no caselaw in respect of Class AA or Class AB of the Part 20, Class AA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) is available, and the decision of a different local planning authority is not determinative, as each application and appeal must be considered on its own merit even in the context of the GPDO.
6. However, and as set out in my decision letter, the Council accept that the appeal building does not share a party wall with the neighbouring property. The GPDO defines "detached" as a building that does not share a party wall with a neighbouring building. Therefore, in the context of the GPDO the logical conclusion is that the proposed development complies with the provisions of Class AA and is permitted.

7. Based on the evidence before me, it is apparent that the Council acted unreasonably by on the one hand acknowledging that the building did not share a party wall and on the other failing to accept that the building is detached in the context of the definitions in the GPDO. In my view the Council's assessment should have not gone beyond this point as the proposal complied with the provisions of Class AA in this regard. The Council erred by then going on to consider other definitions in the GPDO and assessing the application under the provisions of Class AB.
8. I acknowledge that the Council did not have to accept the appellant's legal opinion and that they extended the determination period of the application, at the applicant's request. However, these factors do not lead me to reach a different conclusion on the matter.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

10. 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 the London Borough of Harrow shall pay to Parklands Management, 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.
11. 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.

B Thandi

INSPECTOR