



Costs Decision

Site visit made on 14 November 2022

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 29 December 2022

Costs application in relation to Appeal Ref: APP/Q5300/W/22/3292861 217 Bramley Road, Southgate N14 4XA

- 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 Mihai Ghertan for partial award of costs against London Borough of Enfield.
 - The appeal was against the refusal of planning permission for the change of use from estate agent (A2) to cafe (A3) involving two storey rear extension with basement level to allow for a B1/C3 live/work unit and installation of extractor flue (Retrospective).
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Decision

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

Reasons

2. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance 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 has advised that the application for a partial award of costs is on the basis that London Borough of Enfield initially provided positive pre-application advice which gave the impression that it would favourably consider a revised proposal. As part of this, the applicant was advised that a number of technical reports to support the application should be submitted, namely a sunlight & daylight assessment, traffic assessment and a noise report. This included a sunlight and daylight assessment, traffic assessment and noise report. A full planning application was then submitted. The applicant contends that following this the Council stopped communicating, determined it outside the statutory period and refused it without further consultation. It is asserted that this poor service contributed to the need for an appeal. The Council provides no defence to these claims.
4. In relation to decision-making the National Planning Policy Framework 2021 requires that Councils should approach decisions on proposed development in a positive and creative way. They are also required to work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. The Council did initially work proactively with the applicant through the pre-application advice. However, pre-application discussions are informal and not binding on any future decision the Council may make once a proposal has been subject to the formal process. As such

there is no certainty that a planning application would succeed following positive pre-application advice.

5. In relation to the full planning application, the recommended technical reports, regarding sunlight and daylight and noise assessments were not submitted in support even though they were suggested by the Council as necessary to demonstrate how the proposal would affect the neighbouring property. The lack of these assessments contributed to the Council's doubt regarding the acceptability of the proposal in terms of light and noise.
6. During determination of the application, there is no evidence that the applicant proactively attempted to discuss, resolve, or provide the requested assessments to address the Council's concerns regarding character and appearance, outlook, light and noise. As the Council has not responded to the costs application, it is also not possible to ascertain whether or not it received and/or responded to any further information. Overall, the applicant has not sufficiently demonstrated that the Council acted unreasonably in its duties to consider supporting information issued during the determination period.
7. Consequently, I do not find the Council acted unreasonably in providing the pre-planning advice or in determining the application. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not therefore been demonstrated. Therefore, having carefully considered the views of the parties, I conclude that unreasonable behaviour resulting in unnecessary expense as described in PPG paragraph 030 has not been demonstrated in this case and an award of costs is not justified.

J Symmons

INSPECTOR