The Planning Inspectorate

Costs Decision

Site visit made on 14 November 2022

by Peter Rose BA MRTPI DMS MCMI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2023

Costs application in relation to:
Appeal Refs: APP/E5900/W/22/3302891 and APP/E5900/Y/22/3303159
28 Rhondda Grove, London, E3 5AP

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
- The application is made by Ms Lynde Marshall for a full award of costs against the Council of the London Borough of Tower Hamlets.
- The appeals were in connection with decisions to refuse planning permission and listed building consent.

Decision

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

The submissions for Ms Lynde Marshall

2. The Council's decisions were contrary to the advice set out in the Government's National Planning Practice Guidance (the Guidance). This expects similar cases to be determined in a consistent manner. Contrary to paragraph 195 of the National Planning Policy Framework, the Council's report does not make any reference to having identified and assessed the significance of the appeal site. The decisions were based on inaccurate assertions unsupported by any objective analysis.

The response by the Council of the London Borough of Tower Hamlets

3. The Council's assessment and analysis of the scheme included all the applicant's submitted documents. It formulated an assessment of the significance of the appeal site as outlined in paragraphs 7.7. and 7.8 of the Officer's report. There is no evidence of a similar proposal consented in Rhondda Grove. The Council has provided sufficient evidence to support its reasons for refusal.

Reasons

4. The Guidance identifies possible unreasonable behaviour by an authority to 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.[1]

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

5. The Guidance further defines possible unreasonable behaviour by an authority to include failure to produce evidence to substantiate each reason for refusal on appeal, and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.[2] The Guidance encourages authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through avoidable delay.[3]

6. Whilst the Officer's report does not provide any detailed analysis of the significance of the listed buildings, and nor of the wider Conservation Area, it does identify this as in part relating to the uniformity of the existing elevations.

7. I agree with the Appellant's approach to the significance of the appeal site and with her general conclusions in that regard. I also agree that the Council should have paid closer attention to its previous decisions as relevant material considerations.

8. Although not persuaded of the Council's case, the Authority does identify how it considers harm would arise. This includes the relevant consideration of how, in abutting the flank wall of the modern flatted development to the north, the scheme might possibly reduce the 'reading' of the listed asset as a distinct and coherent group thereby harming its significance. I assessed this concern to be unfounded, but it was still a matter which necessitated close regard as part of these decisions.

9. Notwithstanding other comparable proposals, the particular circumstances of each case will be different and those of this case are distinct. It is not the case that the scheme should clearly have been permitted but instead required careful scrutiny and weighing of various considerations in order to reach a conclusion that this specific proposal should be allowed.

10. On balance, and given the sensitivities which necessarily accompany consideration of works to heritage assets, I am satisfied the Council's position not to have been unreasonable, and that it incurred no unnecessary or wasted expense for the Appellant.

Conclusion

11. The application for a full award of costs is refused.

Peter Rose

INSPECTOR

[2] Paragraph: 049 Reference ID: 16-049-20140306
[3] Paragraph: 028 Reference ID: 16-028-20140306