



Costs Decision

Site visit made on 23 February 2023

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 04 May 2023

Costs application in relation to Appeal Ref: APP/A5270/W/22/3305044 3 Northfield Avenue, London, W13 9QP

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by the Council of the London Borough of Ealing for a full award of costs against Mr B Khinda.
 - The appeal was against the refusal of planning permission for the erection of first floor rear extension & conversion of premises to 3 self contained flats.
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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. The appellant has appealed the refusal of planning permission by the Council. This in itself does not constitute unreasonable behaviour; however, it is necessary to consider whether the appellant has behaved reasonably in submitting this appeal. Specifically, whether the appellant has adequately addressed the reasons for refusal in their grounds to warrant the appeal process.
4. PPG indicates that appellants will be at risk of an award being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding.
5. The Council considers that the proposal did not accord with the development plan and that the information provided in the appellant's grounds for appeal insufficiently address the reasons for the refusal of the application. The appellant has stated that they would provide a good standard of housing without an explanation as to how this would be achieved without complying with the relevant space standards. Instead, they have referred to HMO standards without explaining how these would be relevant, as the proposed development is not an HMO. Additionally, the appellant has referred to other similar developments in the vicinity to justify a departure from the development plan, such as the extension at No 5. However, although there is some evidence of this property being extended, there is no first floor extension

at this location which is sufficiently comparable to the proposed development as to justify its development.

6. The appellant was also invited to expand on their statement to respond to the reasons for refusal, however, no additional grounds were provided. While there is no inherent issue with the statement being brief, very limited information or evidence was submitted for consideration.
7. The PPG explains that appellants are at risk of an award of costs where development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence. These circumstances apply here; the development is not in accordance with the development plan and the appellant has not provided adequate supporting evidence to support any other material considerations which would indicate that the decision should have been made otherwise.
8. On the basis of the above considerations, there is no evidence before me which would indicate that the appeal had any reasonable prospect of succeeding.
9. For the reasons given, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, 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 Mr B Khinda shall pay to the Council of the London Borough of Ealing, 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 Council now invited to submit to Mr B Khinda, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S Lo

INSPECTOR