



Costs Decision

Site visit made on 27 June 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

Costs application in relation to Appeal Ref: APP/M5450/W/22/3311098 93 Headstone Road, Harrow HA1 1PG

- 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 Qasim Gulamhusein, ATF Construction for a full award of costs against London Borough of Harrow.
 - The appeal was against the refusal of planning permission for a change of use from C4 small house in multiple occupation for upto 6 people to large house in multiple occupation (Sui Generis).
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Decision

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

Reasons

2. Planning Practice Guidance ('PPG') advises that, irrespective of the outcome of the appeal, costs may only 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 applicant's application for costs is based on the alleged unreasonable behaviour of the local planning authority ('LPA') and wasted expense, for reasons, as considered below.
4. The LPA is under no legislative obligation to inform the applicant of its reasoning prior to deciding on a planning application. Nevertheless, in this case, the LPA provided some commentary to the applicant, advising that the proposal was unlikely to be supported along with some preliminary reasoning for this. The applicant was also given the opportunity to withdraw the application.
5. Despite having considered the applicant's rebuttal, the LPA proceeded to refuse the applicant's application. I also agree with the LPA that an extension of time, should not be a default fallback where there is a disagreement in positions.
6. I also note that no pre-application engagement was sought by the applicant. The National Planning Policy Framework advises that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties.
7. Therefore, the LPAs decision to refuse the application despite the applicant's rebuttal is not in itself unreasonable behaviour.

8. However, the PPG advises that LPAs are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. This includes failure to produce evidence to substantiate each reason for refusal on appeal.
9. I have distilled the LPAs reason for refusing the applicant's application to a single main issue, which is whether the quality of the proposed accommodation would be acceptable. The assessment of this issue is a matter of planning judgement. This involves some objective and subjective analysis having regard to the context of the site, the proposal and the development plan and any other considerations.
10. With regard to some of the objective assessment, it does appear that the LPA may have misinterpreted the Council's Houses in Multiple Occupation Conditions and Amenity Standards - May 2020. Notwithstanding this, the LPAs reason for refusal also relates to matters in respect of outlook, privacy and amenity. These matters require a degree of subjective analysis, which is a matter of planning judgement for the decision maker.
11. Together, the LPAs 'Delegated Application Report' and decision notice provide an adequate assessment of the proposal. Furthermore, the reason for refusal is specific to the proposal and is largely supported by relevant development plan policies.
12. Also, based on the 'Delegated Application Report' the LPA had regard to the extant use of the appeal property as a House in Multiple Occupancy for up to 6 residents. However, the weight given to a particular fallback or any other consideration is a matter of judgement for the decision maker.
13. Overall, I am satisfied that the LPAs assessment is supported by sufficient analysis and whilst the applicant may disagree with this, this is a matter of planning judgement. Furthermore, having determined the appeal in favour of the LPA, I am satisfied that its reason for refusing the application is not flawed.
14. Given all of the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a full award of costs is not justified.

M Aqbal

INSPECTOR