



Costs Decision

Site visit made on 21 June 2023

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2023

Costs application in relation to Appeal Ref: APP/U5360/W/22/3296523 1A London Fields West Side, London, E8 3EU

- 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 London Fields West LLP for a full award of costs against London Borough of Hackney.
- The appeal was against the refusal of planning permission for the demolition of the existing garages and erection of a three-storey building to create two flats. Proposal includes terraces, roof level conservatory with associated access and green roofs without complying with a condition attached to planning permission Ref 2018/0139 (the original permission), dated 12 June 2018.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 049¹ of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples 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, and a failure to produce evidence to substantiate each reason for refusal on appeal.
4. The applicant submits that the Council has behaved unreasonably in a substantive manner, through a failure to approve the application, which accords with the development plan and other guidance; not determining the application in a consistent manner with regards to the approval of similar development in proximity of the site and a failure to co-operate or enter into meaningful dialogue with the appellant during the determination of the application and thereby avoid the necessity of an appeal.
5. The Council's refusal reason on its decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the development plan which it would be in conflict with, and other relevant guidance. Whilst the Council has not provided a Statement of Case, it has substantiated its reason for refusal in the Officer Report.

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

6. I accept that the effect of the new external material proposed for the upper floors on the host building to the Graham Road and Mapledene Conservation Area (GRMCA) requires a degree of judgment. Additionally, I accept that each application is judged on its own merits. Whilst residential development in the GRMCA, using similar material to that subject of this appeal has been approved, I consider the Council to have adequately reasoned its stance on the matter.
7. The submission by the applicant that the Council has failed to co-operate or enter into meaningful discussions with the appellant during the determination of the application is acknowledged and whilst I can understand the disappointment of the appellant, I have little doubt through the evidence supplied by both parties that there was communication during the determination period, but this could not prevent the necessity of an appeal.
8. It will be seen from my decision that I do not agree with the Council's refusal. However, the decision was a matter of judgement based on the evidence before the Council, which took into account the development plan, other guidance and material considerations. I am satisfied that the Council adequately substantiated their reason for refusal. In this case the appeal could not therefore have been avoided.

Conclusion

9. For the above reasons, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, an award of costs is not justified.

W Johnson

INSPECTOR