
Costs Decision

Site visit made on 16 May 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Costs application in relation to Appeal Ref: APP/J1535/W/22/3306822 1-6 River View, The Mead, Nazeing New Road, Waltham Abbey EN10 6SS

- 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 Domenico Padalino of DPA (London) Ltd for a partial award of costs against Epping Forest District Council.
 - The appeal was against the Council's refusal to grant approval required under Article 3 and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an additional storey on an existing block of flats and internal alterations to create three additional flats.
-

Decision

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

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 Council refused to grant prior approval, in part, due to concerns as to whether or not the dining areas of proposed flats 1 and 3 would receive adequate natural light. Following the receipt of a daylight assessment, which was submitted with the appeal, the Council withdrew this concern.
4. The applicant is seeking a partial award of costs in relation to this matter, on the grounds that the windows serving the dining areas are shown on the submitted drawings to be of the same size, and in the same elevation, as the proposed bedroom windows to the same flats, which the Council did not raise any concerns about. The applicant also claims that the proposed dining areas would receive adequate natural light due to them having southwest facing windows.
5. The onus was on the applicant to demonstrate that their proposal would comply with the relevant limitations, conditions and prior approval matters set out in the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GDPO). As the proposed dining areas would be set back from the proposed windows, beyond the living room areas, it was not unreasonable for the Council to raise concerns regarding the amount of natural light that these areas would receive.

6. I acknowledge that the applicant has incurred additional expenditure in terms of commissioning a professional report to demonstrate that the dining areas would receive adequate natural light. However, had the applicant submitted this with their initial application, this matter would not have formed part of the Council's reason for refusal. Upon receiving the appropriate evidence, the Council withdrew its concern regarding that matter.
7. Nevertheless, the Council maintained its position in relation to the effect of the proposal on the external appearance of the building, and it can be seen from my decision that I agree with the Council's conclusion in this regard. Therefore, the appeal was unavoidable.
8. Accordingly, I cannot agree that the Council acted unreasonably in this case. As such, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

9. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and therefore an award of costs is not justified.

R Bartlett

INSPECTOR