



Costs Decision

Site visit made on 23 May 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2023

Costs application in relation to Appeal Ref: APP/E5330/W/22/3312270 9 Foxglove Path, Greenwich, Thamesmead SE28 0LR

- 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 Ms E Korantemaah for a full award of costs against Royal Borough of Greenwich Council.
 - The appeal was against the refusal of planning permission for the erection of 2 storey, 2 bedroom attached house.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 contends that there were factual errors in the Council's understanding which undermines its case.
4. In respect of the first reason for refusal, the consideration of character and appearance is a matter of judgement as well as fact, and I am mindful that the appeal proposal is of a relatively unusual layout and affects a gap in the streetscape. Based on what I have seen and read, there is no evidence that the Council misunderstood the proposal or the nature of the surrounding area. Although I have allowed the appeal on this issue, the Council's assessment of the site and the surrounding area as well as the effect of the proposal is not so without foundation or factually incorrect as to represent unreasonable behaviour.
5. In respect of flood risk, the Council's concerns in respect of the Flood Risk Assessment (FRA) submitted with the planning application were factually correct and valid, as reflected in the objection from the Environment Agency (EA). It was only the amended FRA submitted with the appeal which addressed the issues in respect of the second part of the exception test, and the EA and Council subsequently withdrew their objections on that issue.
6. However, both parts of the exception test need to be considered, and it is appropriate for the Council to turn to this matter once it considers the second part has been complied with. The first part of the exception test is in effect a balancing exercise regarding whether the wider sustainability benefits to the

community outweigh the flood risk. This is a matter of planning judgement and given the Council's conclusions on the harm arising from the proposal I do not consider that its approach on this part of the exception test was unreasonable.

7. The Council's officer report and reasons for refusal provide a substantive explanation in support of its decision, and this is further elaborated on in its Appeal Statement and subsequent correspondence. This has given the appellant appropriate evidence in order to understand the Council's concerns and to respond to them.
8. Council officers did not undertake a site visit, but this is not a formal requirement and there was sufficient evidence before them to enable them to reach a reasoned decision. This included means of viewing the site digitally.
9. Although it may have been possible for the Council to seek further information on the first part of the exception test, this would not have led to the Council granting planning permission given its conclusions on character and appearance.
10. Drawing the above together, the Council has not behaved unreasonably in its consideration of the proposal or in refusing the application, and this has not led to an appeal which could otherwise have been avoided.
11. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not therefore justified.

David Cross

INSPECTOR