



Costs Decision

Site visit made on 1 August 2023

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2023

Costs application in relation to Appeal Ref: APP/N1540/W/23/3317517 Ebenezer Harberts Road, Harlow CM19 4EU

- 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 Dom Fairmann of Stratton Homes Ltd for a full award of costs against London Borough of Harlow.
 - The appeal was against the refusal of planning permission for the of 2 semi-detached three-bedroom houses with associated vehicle parking and access.
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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. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters, such as providing information that is shown to be manifestly untrue or inaccurate, or deliberately concealing relevant evidence. It also includes substantive matters, such as 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, or failure to provide evidence to substantiate the reasons for refusal.
4. The application for costs relates to the alleged failure of the council to give any weight to an allowed appeal on a nearby site (Hillcrest) which proposed a similar development and instead gave weight to an appeal which was dismissed on the appeal site (Ebenezer). The council considered the dismissed appeal at Ebenezer would support their reasons for refusal.
5. Planning and appeal decisions are a material factor in the determination of planning applications. However, cases must also be considered on their own merits and precedents are not set as a result of previous decisions as each site and proposal has its own characteristics and features. The weight given to previous decisions is a matter for the decision maker in the planning application process.
6. I note that the appellant and the council have both referred to the previous decision made at Hillcrest, the neighbouring appeal site. In their report, the

council outlined their interpretation of the differences between this appeal site and the neighbouring allowed appeal at Hillcrest. The council have also referred to a previous decision at the appeal site of Ebenezer. The appeal decision at this appeal site would have more weight than previous decisions at neighbouring sites, despite their close proximity. This is made clear in their decision-making process as evidenced in the officer report.

7. Whilst all parties may not agree on the outcome of the planning application, I consider that the local council can apply weight to previous decisions based on the shared or different characteristics of each site in the local vicinity. Therefore, from the evidence before me, I do not see any unreasonable behaviour made by the Council.
8. To conclude, I am not persuaded that the local authority acted unreasonably in the substantive matters raised above. As such, unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs on this issue is not justified.
9. For this reason and taking into account all other matters raised, the application for costs is refused.

J Smith

INSPECTOR