



Costs Decision

Site visit made on 14 August 2023 by A Coombes

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2023

**Costs application in relation to Appeal Ref: APP/E5330/D/23/3317388
3 Ranccliffe Gardens, Greenwich, Eltham SE9 6JZ**

Decision

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

Procedure

2. An Appeal Planning Officer has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons

3. 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. The PPG sets out various types of behaviour which may give rise to a substantive award of costs, including not determining similar cases in a consistent manner; and preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other material considerations.
4. From the evidence before me there seems to have been an issue about which plans were used by the Council to determine a previous application on the same site. However, that application is not the subject of this appeal. I cannot be certain that the Council would have approved the original application even if it had considered the amended plans that the applicant refers to. Furthermore, the drawings provided show that none of the previous applications were for the same scheme as is before me in this current appeal. Therefore, it has not been demonstrated that the appeal scheme or other previous applications were submitted unnecessarily, as they were all for slightly different proposals.
5. The costs of other applications cannot be sought through the Costs process, which relates only to the costs associated with this appeal. The applicant would have had the opportunity to appeal the decisions on the previous applications and to apply for costs at that stage. Moreover, if they considered that maladministration had occurred, the matter could have been referred to the Local Government Ombudsman to investigate. It has not therefore been demonstrated that the Council has acted unreasonably during this appeal process as a result of its handling of the previous applications, or that this has led to unnecessary or wasted expense in this appeal.

6. The applicant drew an appeal decision at 32 Kingsholm Gardens to the Council's attention during the application process. The scheme was not mentioned in the officer report and so at the time of the Council's decision it was unclear whether it had been considered. As it was brought up by the appellant as a possible precedent in respect of the appeal proposal, it would have been very helpful for the officer report to reference that scheme and explain why a different view was taken. However, although I have reached a different conclusion to the Council on the merits of the appeal scheme, the example at 32 Kingsholm Gardens was not determinative. There are significant differences in the design of that proposal and the immediate context which mean that it is not directly comparable to the appeal scheme.
7. Each proposal must be considered on its own merits and the approval of that particular scheme does not automatically mean that the specific design proposed on the appeal site should have been allowed. Therefore, this is not demonstrable of the Council determining similar cases in an inconsistent manner and no unreasonable behaviour has been demonstrated in this respect.
8. There is no requirement from the Council to request or accept additional plans during the application process. In this case, the Council did seek changes to the scheme to attempt to address its concerns. Whilst there is some dispute around the timescales for making these changes, it is clear that it did accept the amended plans and that it determined the application based on these.
9. The changes made by the applicant did not fully address the Council's concerns and it is unclear whether this was communicated to the applicant before the refusal was issued. Nevertheless, the Council was working to a target timescale set by the Government and so it was not unreasonable that it did not ask for further amendments.
10. I have reached a different conclusion to the Council on the design of the appeal scheme. This was a matter of planning judgement however, as the relevant development plan policies and supplementary planning document allow for interpretation of design issues having regard to the specific circumstances of the proposal and the appeal site. The Council explained its reasoning in the officer report and reason for refusal with reference to adopted policy and guidance and substantiated its case in this regard. This was not therefore a development which should clearly have been permitted, and no unreasonable behaviour has been demonstrated.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A Coombes

INSPECTOR

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for costs is refused.

L McKay

INSPECTOR