



Costs Decision

Site visit made on 10 October 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2023

Costs application in relation to Appeal Ref: APP/U5930/W/23/3319936 18 Forest Drive West, Leytonstone, Waltham Forest E11 1LA

- 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 Lubna Pervave for a full award of costs against the Council of the London Borough of Waltham Forest.
 - The appeal was against the refusal of the Council to grant planning permission for construction of dormer roof extension to main rear roof, together with installation of three roof lights to front roof slope and alteration to ground floor rear elevation fenestration in connection with change of use of use of 12-person HMO (Sui Generis) to five residential unit- 5 x 1-bedroom self-contained flats (Class C3) with associated hard and soft landscaping; refuse and recycling facilities and secure cycle storage.
-

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 applicant is seeking a full award of costs and contends that the Council acted unreasonably by refusing the application following the issue of a response to a pre application enquiry, which the applicant suggests, advised that a planning application would be viewed favourably.
4. There had been no change in the development plan between the date of the pre application advice and the determination of the planning application. I note that the pre application advice suggested, amongst other things, that Policy DM6 of the London Borough of Waltham Forest Development Management Policies Local Plan (2013) would not be applicable if the property was in use as a House in Multiple Occupation.
5. However, the pre application advice also set out that the provision of only one-bedroom flats would not be supported, and that since the borough has a shortage of family housing, a flat of 3 bedrooms or more should be provided. The applicant did not amend the housing mix in the subsequent planning application, and it was these detailed matters which led to the application being refused. Moreover, Policy DM6 was not relied upon by the Council in the reason for refusals and in any event, PPG is clear in relation to pre-application advice

given by the Council, that such advice is not binding and does not pre-empt the democratic decision making process or a particular outcome¹.

6. The Council refused the application because it was contrary to the provisions of the development plan and provided reasons for this, clearly demonstrating on planning grounds why the proposal would be unacceptable. As can be seen in my appeal decision, I too have found conflict with the development plan, read as a whole. As such, there is no evidence before me to demonstrate that the Council's decision counter to pre-application advice was fundamentally unreasonable behaviour.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

F Harrison

INSPECTOR

¹ Paragraph: 011 Reference ID: 20-011-20140306 Revision date: 06 03 2014