



Costs Decision

Site visit made on 2 October 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th October 2023

Costs application in relation to Appeal Ref: APP/U5930/W/23/3316503 Rear of 249 Chingford Mount Road, Chingford E4 8LP

- 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 Brian Sovitch for a full award of costs against Waltham Forest London Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing commercial building and construction of a two storey building to provide 4 x 2-bedroom and 1 x 3-bedroom single dwelling terrace houses with associated soft and hard landscaping, refuse and recycling, cycle storages.
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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 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 has alleged that the Council behaved unreasonably by imposing each of its reasons for refusing planning permission.
4. The first reason for refusal sets out that adequate and safe means of access would not be provided, which would impact on resident safety and result in poor access to the new development. It shall be seen from my decision upon the planning appeal that is the subject of this application that I have acknowledged the applicant's private right of way and have identified the principle of obtaining pedestrian access to the proposed development to be acceptable.
5. However, I have identified that safe and fit-for-purpose access to the site would not be provided for reasons related to my finding that the shared access, in-part owing to its narrow specification, lack of turning opportunities, and range of potential users, would be poorly suited to accommodating the inevitable requirements of vehicles associated to the proposal. On this basis, I cannot find that the Council acted unreasonably when imposing its first reason for refusing planning permission.
6. The second reason for refusal sets out that the scheme would not guarantee that existing trees are not negatively impacted upon. Whilst I have identified in my planning decision that the proposal would have an acceptable effect upon existing trees, this was a matter of planning judgement. Indeed, it is proposed that built form intrude slightly within the calculated root protection areas of

multiple trees and the dwellings would be situated northward of the surveyed trees leaving them potentially vulnerable to some shading. In this context, notwithstanding amendments made during the planning process and any indication made at officer level that opposition to the proposal in this capacity would be unlikely to be upheld at appeal, I cannot find that the Council acted unreasonably when imposing its second reason for refusing planning permission.

7. The third reason for refusal sets out that adequate measures to serve site waste collection measures have not been incorporated and that recommended dragging distances would be exceeded. It shall be seen from my planning decision that, notwithstanding the inability to adhere to maximum carry/move distances set out in the Council's Waste and Recycling Guidance for Developers (June 2019), I have found that there is no clear reason to resist the principle of private collections.
8. However, it was not, in my view, unreasonable for the Council to resist a private collection approach at this site in lieu of the various constraints presented by the shared access. Indeed, it shall be seen from my planning decision that, in the absence of legal certainty that private waste collections from the site would continue in perpetuity, I have been unable to find that acceptable waste collection arrangements have been satisfactorily demonstrated. As such, I cannot find that the Council acted unreasonably when imposing its third reason for refusing planning permission.
9. For the above reasons, I find that the Council has satisfactorily substantiated each of its reasons for refusing planning permission. Indeed, development was not prevented or delayed that should clearly have been permitted. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Andrew Smith

INSPECTOR