



Costs Decision

Site visit made on 31 October 2023

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2023

Costs application in relation to Appeal Ref: APP/K5600/W/23/3325575 38 & 38A Kelso Place, London W8 5QP

- 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 Irani for a full award of costs against the Council of the Royal Borough of Kensington and Chelsea.
 - The appeal was against the refusal of planning permission for demolition of two houses and replacement with one house and one flat, including extension and basement.
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Decision

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

Reasons

2. 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 expense in the appeal process.
3. In short, the applicant submits that the Council's Planning Committee acted unreasonably by going against the recommendation of its officers, particularly as the design of the scheme had been amended in line with the requests of various officers during the planning application process and following pre-application advice.
4. The determination period was prolonged, and the Council's ultimate decision will have been a disappointment to the applicant. However, it was not unreasonable for the Planning Committee to reach a decision contrary to the professional advice received, provided the reasons for refusal could be substantiated. In this regard, the Council did substantiate the reasons for refusal on appeal and with reference to the relevant policies of the development plan.
5. As can be seen from my accompanying appeal Decision, I also found harm and conflict with the development plan and I dismissed the appeal. It therefore follows that the Council did not prevent or delay development that should clearly be permitted having regard to the development plan and any other material considerations.
6. With regards to other matters raised, costs generated during the time of the planning application cannot be the subject of an award. Nor can costs awards extend to any indirect losses, such as those which may result from an alleged delay in obtaining planning permission. Also, the alleged behaviour of Members of the Council Planning Committee does not fall within the jurisdiction of this costs application.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not occurred and an award of costs is not warranted.

A Caines

INSPECTOR