



Costs Decision

Site visit made on 14 November 2023

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21.12.2023

Costs application in relation to Appeal Ref: APP/A5270/D/23/3317191 25 Melbury Avenue, Southall, Middlesex, UB2 4HR

- 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 Mrs B K Chahal for an award of costs against the Council of the London Borough of Ealing.
 - The appeal was against the refusal of planning permission for retention of single storey rear extension with proposed modifications to openings to rear elevation.
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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 or wasted expense in the appeal process.
3. Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant's cost claim in summary submits that the Council behaved unreasonably in that it failed to take into account: its own draft Local Plan and guidance; other planning approvals and appeals; the personal circumstances of the appellant; and new evidence suggesting that alternative layouts would not meet the appellant's needs. Further, that it took an unreasonable amount of time in processing the application.
5. Regarding the draft Local Plan and guidance, the Council has explained that the sections referred to by the appellant relates to deprivation in primary care facilities, rather than to meeting household needs and is not directly relevant to the appeal proposal. The Document entitled "Accessible Ealing Residential Development & Non-Residential Development (SPG7 – Accessible Ealing) was never adopted and is not a material consideration. Furthermore, the draft Local Plan carries less weight than the adopted Development Plan, which the Council correctly referenced in its reasons for refusal.

6. The Council acknowledged in its Officer's Report that the appellant had submitted other examples of planning approvals and appeals but asserted that they were different, and that each application had to be considered on its own merits. This was not an unreasonable approach, and I took a similar view. It was further explained that this issue had been considered at the previous appeal.
7. Regarding the time it took for the Council to process the application, that is essentially a matter between the main parties, although the Council has explained that it took some time for the appellant to provide the information necessary to validate the application. Whilst I appreciate the appellant's frustration at the time it took for the Council to determine the application post validation, she could have exercised her right to appeal against non-determination.
8. The appellant's personal needs were given significant weight in the Officer's Report, but it concluded that there was no compelling evidence that those needs could not be met with a smaller footprint. What is not clear is whether that view had taken into account the alternative layouts provided by the appellant and the comments on them by a building surveyor and occupational health therapists.
9. In my view, the Council should have demonstrated that it had considered that evidence when reaching its conclusion. In that regard the Council behaved unreasonably. Nevertheless, having considered the evidence myself, I reached a similar conclusion to that of the Council.
10. Turning to the matter of wasted expense. The appellant's response draws on information already provided in the planning statement submitted with the planning application, and copies of extracts from the surveyor and occupational therapists' letters. There has been little extra work involved in responding on this specific matter.
11. Consequently, although I find that the Council acted unreasonably, it has not caused unnecessary expense and an award of costs has not been justified in this case.

P D Sedgwick

INSPECTOR