



Costs Decision

Site visit made on 16 October 2023

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2024

Costs application in relation to Appeal Ref: APP/E5330/W/23/3320743 1 PRINCE OF ORANGE LANE, GREENWICH SE10 8JQ

- 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 Harneet Mangat for a full award of costs against the Council of the Royal Borough of Greenwich.
 - The appeal was against the refusal of planning permission for proposed change of use from B1 offices to C3 residential use including extension of basement for 2 no. self-contained residential flats.
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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 contends that the appeal proposal was policy compliant, and notwithstanding this, there was a fallback position for an inferior scheme. Therefore, the Council's decision to refuse the application was unreasonable.
4. Though I found that the appeal proposal was not policy compliant, I concluded that there were material considerations, by way of the fallback position, which outweighed that conflict. The weight to be attributed to the fallback position as a material consideration against the conflict with the relevant policies is a judgment for the decision maker.
5. I gave the fallback position very significant weight in my determination of the appeal. However, I do not consider the Council acted unreasonably in reaching the conclusions it did, especially given the outcome of a recent appeal¹ at the site, to which the Council gave significant weight. Whilst I have, in my decision letter, explained my reasons for reaching a different conclusion to the Council on the relevance of this previous appeal decision, I do not consider the Council's behaviour, or its decision to refuse the application, was unreasonable.
6. Furthermore, I consider the Council's officer report, and appeal submission, were sufficiently detailed to justify its decision to refuse the application, albeit I ultimately reached a different conclusion on the acceptability of the proposal.

¹ APP/E5330/W/22/3292535

7. The applicant claims that the Council, having made an initial view on the proposal "...dug their heels in and refused to budge", which the applicant again considers to be unreasonable behaviour. However, it is clear from the Council's submissions that it considered its position to be correct. Whilst I have not reached the same conclusion as the Council, as detailed above, I do not consider its judgement to be unreasonable and it was adequately articulated in its submissions. Thus, refusing to deviate from a judgement that it considered to be the correct one was not unreasonable.
8. The applicant also refers to the Council being unable to meet its housing land supply targets. They consider that this only adds to the unreasonable behaviour demonstrated when refusing the application. However, the Council's officer report detailed that in the scenario where paragraph 11(d) in the National Planning Policy Framework does apply, then the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits. As such, the Council gave due consideration to the housing supply position, and paragraph 11(d) of the Framework, when determining the planning application.

Conclusion

9. Given all of the above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R Major

INSPECTOR