



Costs Decision

Site visit made on 9 November 2023

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Costs application in relation to Appeal Ref: APP/M5450/D/23/3323275 76 Birchmead Avenue, Pinner, Harrow, HA5 2BH

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Mark Reeves for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for the conversion of existing garage/outbuilding to ancillary accommodation for elderly relatives.
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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. The applicant considers that the Council has exhibited unreasonable behaviour when it refused planning permission on the basis of issues related to character and appearance.
4. The PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal. The applicant refers to deliberately contrived misstatements by the Council. Consequently, it is necessary to consider whether the Council has provided relevant evidence to show that there were reasonable grounds for their view.
5. Regarding the appearance of the proposed development, while I recognise that there would be a limited amount of external alteration, the proposed changes would have a significant effect on the character and appearance of the area, as it would create the appearance of a residential bungalow dwelling. This was a reasonable conclusion for the Council to reach based on the evidence before them. This visual effect is not limited to casual observers, but to any persons in the vicinity of the proposed development who are able to consider the contrasting visual context of the surrounding area. Against this background, it was not unreasonable for the Council to consider the proposed development to be cramped by comparison. It was also not unreasonable for the Council to make references to Policy D6 of the London Plan (2021) in relation to the proposed development being akin to certain dwellings, as an estimation of the

visual effect of the proposed development. From my site visit, I observed that the area was not characterised by bungalows, and none were observed in the immediate area with a sufficiently comparable form to the proposed development. Furthermore, it was not unreasonable for the Council to not suggest amendments to the design of the scheme, given that it had already been submitted by the applicant who chose not to enter into any pre-application discussions. In relation to this failure to engage with pre-application discussions, there is no evidence that the applicant has been significantly disadvantaged due to a lack of planning expertise, given that they have worked with professional consultants throughout this appeal.

6. In relation to the concerns of the Council that the outbuilding could operate and be used as a fully self-contained dwelling or otherwise constitute garden land development, this issue is irrelevant insofar as these concerns do not directly relate to character and appearance. Nonetheless, the information before me confirms that Council did consider the visual effect of the proposed development and that it was a pivotal issue in their reason for refusal. As such, they did reach the accurate conclusion that the proposed development would result in an unacceptable impact on character and appearance. This was a reasonable conclusion based on the evidence before them, given their focus on the proposed development having the appearance of garden land development.
7. In relation to the email dated 5 April 2023, it clearly sets out that if the Council were minded to approve the application, certain restrictions such as legal agreements would be sought. It does not indicate that planning permission would be forthcoming. There is no information before me as to why the refusal of the Council to confirm that approval would be recommended would be contrary to an obligation set out by the NPPF. Additionally, there is no evidence before me that a fundamental principle objection was contrived, given that this request for further information followed the applicant's offer to submit medical documents.
8. Regarding the implication that the proposed development benefitted from permitted development rights, it was the applicant's choice to submit an application and I have found no fault with how the Council subsequently determined the application.
9. In relation to the timing of the public consultation, I find that there was no statutory limit to the consultation period, which meant that all submissions needed to be restricted to a 21 day period. In any event, there is no evidence before me that the applicant has been significantly disadvantaged by the timing of this process. In relation to the interest from Councillors and the email dated 02 May 2023, there is no evidence before me that the Council has behaved unreasonably or that this interest unduly influenced case officers, given that the email dated 26 April 2023 already indicated that the Council considered the application to be unacceptable. Similarly, regarding the memo obtained from Harrow Council, it is clearly a consideration of the merits of the planning application and as such, the absence of a fundamental principle objection is not unreasonable.

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Lo

INSPECTOR