



Costs Decision

Site visit made on 9 January 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2024

Costs application in relation to Appeal Ref: APP/Q5300/W/23/3328114 75 Blakesware Gardens, Edmonton, Enfield N9 9HX

- 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 Domenco Padalino for a full award of costs against the decision of the Council of the London Borough of Enfield.
- The appeal was against a refusal to grant consent, agreement, or approval to details required by a condition of a planning permission. The application to which the appeal relates sought approval of the surface water drainage details and means of enclosure required by conditions Nos 7 and 10 attached to planning permission for subdivision of site and conversion of property into 2 single family dwellings involving part single and two storey side extension, part single and two storey rear extension at 75 Blakesware Gardens, Edmonton, Enfield, Ref 22/01795/FUL, dated 25 July 2022.

Decision

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

Preliminary Matter

2. As detailed in the banner heading above the applicant has indicated that the costs application is for a full award of costs. However, the information provided within the costs application only relates to condition No 7, the surface water drainage details whereas the appeal was against the Council's refusal to grant consent, agreement, or approval to details required by both conditions No 7 and No 10, the boundary treatments.
3. Given the above I have, therefore, assessed this as a partial award of costs, in regard to the costs relating to condition No 7 only.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, 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.

Unreasonable behaviour

5. The applicant claims, in summary, that the Council acted unreasonably in not approving the details submitted which, they consider, are in accordance with the Development Plan and National Planning Policy Framework.

6. The Council has rebutted the claim advising that the applicant was fully aware of the information requested by the Council Drainage Engineer and was also given the opportunity to discuss the scheme directly with the Officer before submitting the application subject of this appeal.
7. From the evidence before me the applicant was aware of the Council's views on what information was required to be submitted to achieve a policy compliant sustainable drainage scheme for the surface water drainage of the site. The Council has provided me with copies of correspondence between the planning officer and the applicant and all of the Council Drainage Engineer's consultation responses.
8. The applicant chose not to seek any pre-application advice before submitting the current application. The Council assessed the application on its merits taking account of the information submitted, the development plan and the Framework. There is no legal requirement for the Council to negotiate on a live planning application and the advice at paragraph 38 of the Framework, for Council's to work proactively with applicants, can be followed through pre-application discussions.
9. Moreover, the Council justified its decision to refuse the application, provided evidence of detailed consideration of the information submitted by the applicant, including consideration of the Council's technical consultee advice by the planning officer, and justified the requests for additional drainage information. The appeal before me is, therefore, materially different to the appeal quoted by the applicant¹. For these reasons, I have no substantive evidence that the Council has acted unreasonably in this case.
10. Reference is made in the applicant's costs claim to a requirement for a Flood Risk Assessment (FRA) and that this was not reasonable or required under policy or legislation. However, the reason for refusal did not include a requirement for an FRA. Moreover, no FRA was provided with the appeal and as such this issue has not resulted in any unreasonable behaviour or unnecessary expense.

Conclusion

11. For the above reasons, I find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

K Townsend

INSPECTOR

¹ APP/B0230/X/22/3298214