
Costs Decisions

Site visit made on 16 April 2024

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2024

Costs application A in relation to Appeal Ref: APP/T5150/D/24/3338354 137 Chatsworth Road, London NW2 5QT

- 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 Auction Property Limited for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was made against the refusal of planning permission for alterations to roof and fascia to retain part single storey rear, part two storey rear and two storey side extension and retain rear dormer window and 1 rooflight to front, 2 rooflights to side elevation and rooflight to single storey rear extension to dwellinghouse.
-

Costs application B in relation to Appeal Ref: APP/T5150/D/24/3338835 137 Chatsworth Road, London NW2 5QT

- 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 Investments (Hayes) Limited for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was made against the refusal of planning permission for proposed alterations to roof and fascia to retain part single storey rear, part two-storey rear and two-storey side extension and retention of rear dormer window and 1 roof light to front, 2 roof lights to side elevation and 1 roof light to single storey rear extension to dwelling.
-

Decisions

Costs application A in relation to Appeal Ref: APP/T5150/D/24/3338354

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

Costs application B in relation to Appeal Ref: APP/T5150/D/24/3338835

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

Preliminary matter

3. There are 2 separate costs applications before me to determine. The issues raised in each case are very similar and so I have assessed them together.

Reasons

4. The Planning Practice Guidance (the 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.

5. I do not accept that the Council has prevented development in either case that should clearly have been permitted. Given the nature and scale of the proposals and the close relationship of No 167 to the properties on either side of the site, the Council had reasonable planning grounds for its decisions. While the applicants disagree with that opinion, it is one that the Council was entitled to reach.
6. In my view, the reasons for refusal in each case are clearly framed and these set out the harm that the Council considered would be caused by the proposals. Reference is also made to relevant development plan policies and to the guidance within the Council's Supplementary Planning Documents. The Officer's report in each case is inevitably a summary assessment of the individual proposal. Nevertheless, it explains in some detail the reasons for the objections raised with realistic and specific evidence given about the consequences if either development were to proceed. While the applicants disagree with that assessment, the Council's evidence is sufficient to justify its approach.
7. Given the similarities between the proposals it is not surprising that the content in the Officer's reports was common to both schemes. From my reading of these reports, the commentary makes clear those elements of the development that the Council found to be unacceptable, and both refer to the appeal decision on the site that was issued in November 2023. Consequently, I am unable to conclude that the Council's evidence was generalised or vague or that insufficient consideration was given to the previous Inspector's findings in the 2023 appeal decision when the Council determined the applications.
8. It is true that the Officer's reports do not identify the neighbouring occupiers that the Council considered would be affected nor do they explain exactly how their living conditions would change if either of the proposals were to come forward. That said, the applicants would have been aware that 135 and 139 Chatsworth Road were closest to the site and that the 2023 appeal decision identified the occupiers of these properties as most likely to be impacted by the development. The applicants would also have noted that the reason for refusal in each case refers to the effect of the proposal specifically on light, outlook, sense of enclosure and visual impact. On that basis, it is difficult to conclude that the lack of detail on this issue in the Officer's reports prompted any significant additional expense for work that ultimately turned out to be fruitless at the appeal stage.
9. To my mind, the Council's evidence provides a rational and a respectable basis for its stance. The Council has shown clearly why in its view the development in each case should not be permitted and it has substantiated its case. For the reasons given in the appeal decisions, I agree with them.

Conclusion

10. Overall, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Therefore, each application for an award of costs is refused.

Gary Deane

INSPECTOR