



Costs Decisions

Hearing held on 14 May 2024

Site visit made on 14 May 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2024

COSTS APPLICATION A

Costs application in relation to Appeal Ref: APP/E5900/W/23/3332263 7-15 Blount Street, London E14 7RL

- 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 Tom Slingsby of Southern Grove Blount Street Limited for a full award of costs against the Council of the London Borough of Tower Hamlets.
 - The appeal was against the refusal of planning permission for the demolition of existing buildings on site and redevelopment to provide purpose-built student housing accommodation (PBSA), with associated internal and external amenity space and cycle parking, alongside commercial space at the ground floor level.
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COSTS APPLICATION B

Costs application in relation to Appeal Ref: APP/E5900/W/23/3332263 7-15 Blount Street, London E14 7RL

- 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 the Council of the London Borough of Tower Hamlets for a full award of costs against Tom Slingsby of Southern Grove Blount Street Limited.
 - The appeal was against the refusal of planning permission for the demolition of existing buildings on site and redevelopment to provide purpose-built student housing accommodation (PBSA), with associated internal and external amenity space and cycle parking, alongside commercial space at the ground floor level.
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Decisions

Costs Application A – application by Tom Slingsby of Southern Grove Blount Street Ltd

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

Costs Application B – application by the Council of the London Borough of Tower Hamlets

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

Reasons

3. 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.

4. The Guidance advises that the aim of the costs regime is to “encourage planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay”.
5. The general principle embodied within the Guidance is that the parties involved should normally meet their own expenses. The Guidance gives examples of unreasonable behaviour. For local authorities these include a failure to produce evidence to substantiate a reason for refusal on appeal; refusing planning permission on a planning ground capable of being dealt with by conditions where it is concluded that suitable conditions would enable the proposed development to go ahead; and not determining similar cases in a consistent manner. For appellants these include delay in providing information or other failure to adhere to deadlines; if the appeal is withdrawn without good reason; and resistance to, or lack of co-operation with the other party or parties in providing information.
6. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, behaviour and actions at the time of the planning application can be taken into account in the Inspector’s consideration of whether or not costs should be awarded.

Costs A

7. The PPG makes it clear that a local planning authority may be at risk of a substantive award of costs if it fails to substantiate its reasons for refusal at appeal, and/or makes vague generalised or inaccurate assertions about a proposal’s impact which are unsupported by any objective analysis.
8. The Council, or more specifically its Planning Committee, refused the planning application against officer advice. Whilst a planning committee is entitled to make decisions that are contrary to the officer recommendation, there is an expectation that where this occurs it should show reasonable planning grounds for taking a contrary decision and produce sound, substantive and defensible evidence on appeal to support the decision in all respects. Planning law is clear that decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
9. The officer’s recommendation to the Planning Committee acknowledges that the living conditions for some occupiers of neighbouring properties would be affected by the proposed development. Although no acknowledgement is made within the report of the value of using brownfield land nor reference to the significant weight that paragraph 124 c) of the National Planning Policy Framework (the Framework) places on brownfield development, the proposal is described as a re-development proposal. However, it is clear from the minutes that the planning committee felt that the negative impacts outweighed the benefits. Therefore, I do not consider that the Council acted unreasonably in refusing the application.
10. The applicant claims that the Council has not directly referenced paragraph 124 c) of the Framework in their Statement of Case (SoC). Nevertheless, I am satisfied that it considered that the harms outweighed the benefits, and this is set out in its statement.

11. Furthermore, the PPG is clear that the Framework 'must be taken into account where it is relevant to a planning application or appeal'¹ and therefore is implicit that national planning policy is a consideration in the determination of all planning applications and appeals and I note that the Framework is listed in the documents to which the Council had regard in coming to their decision.
12. Although I have come to an alternative conclusion, as set out in my main decision, the Council has clearly set out its view on the impact of the proposal on the living conditions of neighbouring occupiers. Although the planning balance section of the Council's Statement of Case (SoC) is brief and not explicit that it afforded weight to paragraph 124 c) of the Framework or any other benefits of the development in reaching its conclusion, I consider that it falls short of unreasonable behaviour.
13. The second strand to the applicant's costs claim relates to the Council's position that there is no great local need for purpose-built student accommodation (PBSA) in contrast with traditional housing. However, the applicant overstated the "great need for student accommodation" late in the proceedings. The applicant submitted evidence which demonstrates the demand for student accommodation and the Council does not dispute that a number of universities are highly accessible from the site. Furthermore, the Council chose not to defend the reason for refusal relating to the need for traditional housing and placed moderate weight on the benefit attributed to the provision of student housing in the planning balance.
14. For an award of costs to be forthcoming, it has to be demonstrated that the applicant incurred unnecessary or wasted expense in the appeal process. As set out above, the Council's planning committee was entitled to make the decision it did to refuse planning permission. Although the Council relied on a single reason for refusal at the appeal, they did not fail to substantiate their reasons for doing so albeit their reasoning was brief in places.
15. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. As a result, an award of costs is not warranted and accordingly refused.

Costs B

16. The Council's application for costs is made on the grounds that the appellant's application for costs should not have been made and the way that the appellant made the application for costs.
17. The PPG states that it is good practice for applications for costs to be made in writing before a hearing. However, it is open to a party to make an application for costs at any time prior to the close of the event. Whilst I agree that the applicant did not follow good practice, this does not amount to unreasonable behaviour. As a result, an award of costs is not warranted and accordingly refused.

¹ 21b -006-20190315 (How must decisions on applications for planning permission be made?)

Conclusion

11. I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted in respect of claims made by either party.

K L Robbie

INSPECTOR