



Costs Decision

Site visit made on 28 August 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2024

Costs application in relation to Appeal Ref: APP/Y5420/W/24/3340191 27 Aylmer Road, Hornsey, Haringey, London N2 0BS

- 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 Sidhartha Sinha for a full award of costs against the Council of the London Borough of Haringey.
- The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.

Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Parties in planning appeals normally meet their own expenses.
3. In this instance the applicant is seeking, on substantive grounds, a full award of costs against the Council. The claim is three-fold. Firstly, that the Council unreasonably delayed and prevented development which should have been permitted. Secondly, that the Council has failed to determine similar cases in a consistent manner and thirdly, that the Council has made inaccurate assertions about the proposal's impact, which is unsupported by objective analysis, thereby failing to substantiate the reasons for refusal.
4. Planning law is clear that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. It was the Council's assertion that the proposal did not accord with policies in the development plan and have set out clearly why they think that is the case.
5. Having carefully considered this element of the applicants claim for costs, I do not agree that the Council have failed overall to substantiate or rationalise their reasons for refusing the application. The Council's officer report clearly sets out its case for refusal. Whilst it lacks the detail of the applicant's case, it succinctly sets out the officer's thought process and logical conclusion that they reached in their recommendation to refuse the application. With regard to matters of character and appearance, the officers report is short and to the point. However, this is not a criticism and does not amount to unreasonable behaviour on the Council's part through vague, generalised or unsubstantiated assertions.

6. It is evident from the Council's officer report and its appeal statement that the Council had regard to the character of the surrounding area and the site's context in making its decision. Assessments of the impact upon character and appearance will almost inevitably be subjective in nature. A planning judgement was exercised by the Council having regard to the development plan and other material considerations in reaching their decision. I am satisfied that the Council have not acted unreasonably in this respect, and it cannot therefore be the case that unnecessary or wasted expense has been incurred by the applicant.
7. The applicant contends that the Council have acted unreasonably in not determining similar cases consistently. There appears to be a discrepancy around the Council's opinion of whether the appeal property makes a positive or neutral contribution to the Highgate Conservation Area (HCA) at various times. As I have set out in my main decision, these apparent changes of opinion have no bearing on the appeal before me. In any event, the Council have accepted that the demolition of the existing house. From the evidence before me, it appears that these assessments were made by different Council officers, who are entitled to have different professional opinions. Whilst I agree that this does not demonstrate good customer care, it falls short of unreasonable behaviour by some stretch.
8. The applicant is aggrieved that replacement dwellings on another street within the same sub-area of the HCA have been granted planning permission, and the Council have not provided an explanation for this. The planning officer reports for these permissions are likely to be available for public view on the Council's website, and therefore it is open to the applicant to seek out the Council's reasoning in these cases. It is not for me to second guess the Council's assessment of those schemes, and I have clearly set out my reasons in my decision why I agree with the Council that in this instance that the proposal does not comply with the requirements of the relevant policies in the development plan. Moreover, the council is under no obligation to explain its actions on other schemes to the applicant, and therefore I consider that unreasonable behaviour has not occurred in this respect.
9. Moreover, I have no substantive evidence that the Council has been inconsistent in their approach to the applicant's proposal. In fact, it is evident that the applicant received negative feedback on schemes similar to that of the appeal proposal from Council officers both at pre-application stage and at the outset of the planning application which resulted in an amended proposal being granted permission.
10. The final strand of the applicant's claim is that the Council has made inaccurate assertions about the proposal's impact which are unsubstantiated. I note that the Highgate Conservation Area Character Appraisal and Management Plan (HCACAMP) was published over 10 years ago, and the area has been subject to some change since its publication. Nevertheless, it is not unusual for documents of this age to inform Council decision making. Having visited the site and made my own observations, it is clear to see the character and appearance of dwellings along the road remains consistent with that referred to in the HCACAMP.
11. The applicant notes that an interpretation board elsewhere in the HCA celebrates the architectural diversity of the area. The HCA is large, spans the boundary of two London Boroughs and is divided into several sub-areas. It is

therefore unsurprising that the area is diverse in its architectural styles. Moreover, the character and appearance of an area can alter significantly from street to street. I therefore do not consider that it is unreasonable for the Council to rely on the assessment of the character and appearance of the area in the HCACAMP in the determination of planning applications. Accordingly, I do not consider that Council failed to properly evaluate or consider the merits of the scheme and therefore the appeal could not have been avoided.

12. Therefore, having carefully considered the various elements of the applicant's claim for an award of costs I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

KL Robbie

INSPECTOR