



## Costs Decision

Site visit made on 9 October 2024

**by R J Redford MTCP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 October 2024**

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### **Costs application in relation to Appeal Ref: APP/U5930/W/24/3343542 37 Orford Road, Waltham Forest, Walthamstow E17 9NL**

- 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 Michael Seedin for a full award of costs against Waltham Forest London Borough Council.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the erection of a ground floor extension and air extraction and ventilation system.
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### **Decision**

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

### **Reasons**

2. 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.
3. The applicant considers that the Council behaved unreasonably by failing to support a planning application which is wholly in accordance with the development plan and supported by national policy, and where all planning issues have been address satisfactorily or could be conditioned; and by failing to produce any evidence to substantiate its reason for rejecting the planning scheme.
4. It appears to me that the main reason the Council failed to issue a decision is the lack of agreeance between the main parties as to what the lawful use of the existing rear extension is. Without the relevant evidence before me, and as the use of the proposal did not form part of the proposed development it is not for me to draw a conclusion on this matter.
5. Nevertheless, such an impasse should not have prohibited to the Council to issue a decision, and whether it supported the proposal or not would have been a matter of planning judgement. Equally the appeal process allows for appeals to be lodged when a Council fail to issue a decisions, as is the case here.
6. However, as the Council did not issue a decision there are no formal reasons for refusal to be substantiated. Although, through to appeal process, it is evident the Council has found harm relating to the amenity of neighbouring occupants, separate to the issues relating to use, and substantiated this reason within its statement of case including reference to relevant policy.

7. That the Council proposed conditions as part of the appeal process is a necessary requirement to assist the Planning Inspector. This requirement does not prejudice the Council's position in light of the proposal, nor should it be assumed that by submitting conditions the Council consider they would overcome the harm it has identified. I do not, therefore, find the Council's submission of conditions at appeal as evidence that it should have approved the proposal at application.
8. It is noted that through various communications with planning officers, the Council's position concerning the proposal had changed both in terms of the issues relating to use and whether the proposal would be supported or not. Nevertheless, a Council is not bound by the opinions of its officers during the application process. Its position in relation to a specific proposal is not finalised until a decision notice has been issued.
9. Although the Council should have been capable of issuing a decision within a timely manner, in all probability it would have been a refusal. Therefore, in my mind an appeal would have still been necessary and the costs pertaining to such an action still accrued.
10. Consequently, taking into consideration the evidence before me, and for the reasons given above I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*RJ Redford*

INSPECTOR