
Costs Decision

Site visit made on 21 August 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2024

Costs application in relation to Appeal Ref: APP/Z5060/W/23/3333959 2-4 Bull Public House, Store At Rear Of, North Street, Barking and Dagenham, Barking IG11 8ET

- 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 R Singh (Samsen Ltd) for a full award of costs against the Council of the London Borough of Barking & Dagenham.
 - The appeal was against the refusal of the Council to grant planning permission for Erection of a 5 storey building comprising 5 flats (C3 Use), with 12 secure cycle parking spaces, associated refuse storage, private amenity, Rain Garden, Green Roof and Living Green Walls.
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Decision

1. The costs application is refused.

Reasons

2. The Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour on a substantive or procedural basis has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The claimant considers that the Council have behaved unreasonably on both procedural and substantive grounds. There is a suggestion that the Council have prevented/delayed development which should clearly be permitted, acted contrary to, or not followed well established case law and not determined similar cases in a consistent manner. The costs claim is unclear on how it is alleged that the Council has acted unreasonably in the ways identified above. As can be seen from the Decision Letter (DL) the Council have not acted to prevent or delay development which should have clearly been permitted.
4. The claimant has concerns over the address description of the proposal and in particular the use of the word 'store'. However, the claimant describes the site within their Design and Access Statement as containing a vacant single storey outbuilding constructed to provide a beer garden for the public house during the Covid-19 pandemic, now disused. The outbuilding is also described as vacant/underused storage floorspace. The appeal site can be described as being to the rear of the Bull Public House. The property name on the application form is further detailed as '2-4 Bull Public House, Store At Rear Of'.
5. An outbuilding was in place at the site at the time of my visit and it was not unreasonable of the Council to identify that it had not been supplied with plans of the existing building, albeit I deal with that issue fully in my DL.

6. Although I have not agreed with the Council on the basis of the evidence before me with regard to their concern around loss of public house floorspace, I do not consider it unreasonable of them to raise this as a concern.
7. The Council considered the submitted daylight and sunlight information within their officer report, identifying its limitations. I have concerns over the submitted study, as outlined in more detail within the DL.
8. Even in the event that the Council had incorrectly assessed the proposed roof configuration there is nothing to indicate that this on its own has led the claimant to incur unnecessary or wasted expense in the appeal process. In any case, that the lift overrun would be screened by the build up for the green roof is not completely clear from the plans.
9. I am unclear as to how concerns of the claimant over the details within the validation letter of the Council has led the claimant to incur unnecessary or wasted expense in the appeal process.

Conclusion

10. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

T Burnham

INSPECTOR