



Costs Decision

Site visit made on 16 October 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Costs application in relation to Appeal Ref: APP/Y5420/W/24/3347165 137 Turnpike Lane, Wood Green, Haringey, London N8 0DU

- 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 Polo Investments LLP for a full award of costs against the Council of the London Borough of Haringey.
 - The appeal was against the refusal of planning permission for redevelopment of existing rear storage yard to create new two-storey unit, for storage use with ancillary office space.
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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 substantiate the reasons for refusal, made generalised assertions about the proposal's impact which were not supported by objective analysis, delayed and prevented development that should have been permitted and failed to determine a similar case in a consistent manner. I address the reasons for refusal in turn.

Reason for refusal 1 – Character and appearance

4. The Council's reasoning with respect to the effect of the proposal on the character and appearance of the area is set out in the Delegated Report. Although it is brief, it is supported by observations and analysis of the appeal site. The proposal's scale and proximity to the surrounding boundaries are relevant to both character and appearance and living conditions. Nevertheless, the Delegated Report and reasons for refusal distinguish between the matters which relate to the design and appearance of the proposal and the impact on neighbouring amenity.
5. The applicant's disagreement with the Council effectively amounts to a difference of opinion regarding the effect of the proposal on character and appearance which is a matter of planning judgement. The Council's case on this matter was appropriately reasoned and substantiated and in itself would not support a conclusion of unreasonable behaviour in this regard.

Reason for refusal 2 – Living conditions

6. The suggestion that the windows could have been removed by planning condition, would require the design of the proposed building to be altered. This would be beyond the scope of a planning condition. The reason for refusal related to the

impact of the proposal on residential amenity. Whilst in my appeal decision I have found that a planning condition could have been imposed to obscurely glaze the windows and address privacy concerns, this would not have overcome the other amenity issues in terms of the impact of the proposal on outlook. Although a planning condition could have resolved one amenity issue, it would not have addressed the Council's other amenity concerns. The Council have therefore not behaved unreasonably in this regard.

7. The reason for refusal makes specific reference to the siting and location of the proposal. The analysis in the Delegated Report expands upon this highlighting the height of the proposed building and its proximity to the boundary of the properties on Sydney Road. Whilst the Council did not specifically mention how the building would be designed, the site context or the length of the rear gardens when considering this aspect, these factors would not change the siting and location of the proposal. The Council's case on this issue was reasoned and substantiated.
8. Planning judgement is required when considering the effect on the occupants of neighbouring properties. The Council were entitled to conclude that the proposal would be overbearing for the reasons given, even if this was not raised in the public consultation objections. This does therefore not amount to unreasonable behaviour.
9. It is unfortunate that the Council were not more specific in their consideration of the benefits put forward by the applicant with regards to a reduction in noise, odours and fumes for nearby residents. However, even if these considerations resulted in a positive impact on residential amenity, it would not overcome the effects of the proposal on outlook and privacy. I am not persuaded that this amounts to unreasonable behaviour.

Reason for refusal 3 – Trees

10. The policies listed in the reason for refusal require development to protect existing trees. This is regardless of whether they are protected by a preservation order. Whilst the Council did not mention the previously approved application when considering this matter, as will be seen from my appeal decision, the proposals are different. The Council have therefore not failed to determine similar cases in a consistent manner or added a new reason for refusal.
11. As explained in my appeal decision, this issue could not have been made acceptable by a planning condition. The Council have therefore not acted unreasonably in refusing the application on this basis, given the lack of clarity about the impact of the proposal on the nearby trees. This was substantiated by the Council.

Procedural matters

12. Whilst it would be expected, the Council are not bound to submit a statement of case with the appeal, even if they indicated that they intended to do so. This is therefore not demonstrative of unreasonable behaviour.

Conclusion

13. On the basis of the evidence before me, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not warranted.

L Reid INSPECTOR