



Costs Decision

Site visit made on 30 October 2024

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Costs application in relation to Appeal Ref: APP/Q5300/W/24/3342384 18-24 Chase Side, London N14 5PB

- 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 Enfield Council for a full award of costs against Brookway LP.
 - The appeal was against the refusal of the council to grant Erection of a single storey roof extension to provide two additional self-contained residential units.
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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. All parties are expected to behave reasonably to support an efficient and timely process.
3. The Council is aggrieved with the appellant's comments within their Statement of Case citing a lack of communication and co-operation throughout the live planning process and that the Council did not act in a positive or proactive manner, as is the thrust of guidance within the National Planning Policy Framework (the Framework). The appellant has expressed their disappointment at the working relationship between them and the Council. This more specifically related to unanswered emails particularly regarding future residents' ability to access on-street parking permits, and cycle parking provision. A reason for refusal was therefore imposed by the Council in respect of this matter.
4. The Council justifies their award of costs application as they explain they encourage planning applicants to enlist in their pre-application service as an initial communication channel prior to formal submission. They contend that, amongst other things, matters in dispute between the parties can be explored at this early stage. I accept this approach is advocated within the Framework. The applicant entered into no pre-application engagement.
5. Whilst the pre-application service can be a positive and worthwhile experience for both parties, I recognise this cannot always lead to conflict resolution in all areas that are found to be in dispute. Indeed, I am aware that this scheme was refused for three reasons. It would be unreasonable to expect every form of development to enter into a pre-application dialogue. Also, although the pre-application service is encouraged by the Council, there is no obligation to enter into it.

6. Furthermore, at pre-application stage, no consultation occurs with those that share a boundary with the site, and external consultees would not always have the opportunity to comment on a proposal. Therefore, some comments on a scheme are unknown until formal application stage and can inevitably require addressing. Whilst a pre-application service has limitations to its capabilities, its benefits can nonetheless avoid delays at application stage, and I am mindful that local planning authorities do not have an infinite amount of time to enter into discussion with the applicant's during the live course of a planning application.
7. The Council complains of 'repeated' update requests from the agent regarding the live application, which they say is unreasonable and in the circumstances 'where permission cannot be granted'. They stress the value of pre-application advice. Be that as it may, with or without a pre-application service, an appeal situation can still arise. The right of an appeal is a statutory right.
8. From the evidence before me, the appellant was aware that the case officer was limiting their correspondence with applicant's/agents during the live application process. It is good practice for the Council to convey this information clearly to customers, at an early stage and to what extent this reasonably entails. I have been given no substantive evidence from the Council to refer to on how they set about managing customer expectations.
9. There is evidence before me that the Council did not always communicate with the appellant during the planning application process largely attributed to no pre-application service being engaged. The lack of communication rendered the comments made at the appeal stage by the appellant. All things considered, this does not lead me to come to the view that the appellant has behaved unreasonably by proceeding to appeal stage and citing their comments on the Council's service to therefore cause the Council to incur unnecessary or wasted expense.
10. Whilst I have reached my own decision on the award of costs application, the example before me submitted by the Council relates to the appellant as Applicant for an award of costs, based on two grounds. The appellant did not enter into a pre-application advise service where the requirement to submit a tree survey with the planning application would have arisen. The Council chose not to seek this report during the application stage, as was their decision to do so. The Inspector concluded had they entered into pre-application advice this would have been flagged and would have negated the reason for refusal. The Inspector agreed it was reasonable under the circumstances for the Council not to request this as to undertake pre-app is within the spirit of the Framework. Taking into account this decision, to my mind, it does not precisely follow the same thrust as the circumstances before me. In any case, all claims for costs must be considered on the facts of the particular case having regard to the evidence submitted by the parties.
11. To conclude, none of the types of behaviour which may give rise to a substantive award under the PPG have been established, based on the above. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not warranted.

Alison Scott INSPECTOR