



Costs Decision

Site visit made on 12 November 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2024

Costs application in relation to Appeal Ref: APP/T5150/W/24/3342427 Garages to the Rear of 104 - 114 College Road, Kensal Rise NW10 5HD

- 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 Bluestone Properties Ltd for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was against the refusal of planning permission for the demolition of the existing garages and the erection of 4 no. mews houses (Use Class C3), including private amenity space, cycle parking, waste/recycling storage, landscaping and other ancillary works.
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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. I note the applicant considers that the Council did not provide time for responses to be given upon receipt of the Urban Design Officer's comments. Such comments, however, did not raise matters that needed to be addressed. In any case, it is for the decision-maker to consider whether seeking amendments to a proposal would be likely to overcome its concerns. Whilst I have not agreed with the Council in all respects, it is apparent that the substantive concerns, set out at pre-application stage and earlier in the application process, could be resolved without significant changes to the proposed development. It was therefore reasonable for the Council to determine the application without allowing the applicant further time.
4. It is suggested that the Council failed to respond to telephone calls and took an unreasonable amount of time to reply to emails, leading to delays in providing information. However, it would appear, from the submitted emails, that the Council did engage with the applicant and that responses were provided, albeit that sometimes several prompts were required. I find such responses to be helpful, referring to issues raised at the pre-application stage where relevant. As such, I consider that there is no compelling evidence that the Council acted unreasonably by failing to behave proactively during the planning application process. In any case, I have no firm evidence that more positive engagement from the Council would have resulted in the appeal being avoided whilst still achieving the scope of development sought by the applicant.

5. It may be that had the Council clarified its expectations regarding the need for a No Sky Line Assessment (NSLA), and highlighted the public availability of the floor plans of the adjoining property, earlier in the application process, the issues of concern in the first reason for refusal could have been addressed prior to any appeal. However, it would still have been necessary for the NSLA to be undertaken. Considering the limited extent of the appellant's evidence in respect of this matter, I am satisfied that even if I were to consider the Council to have acted unreasonably in this regard, it has not resulted in wasted expense in the appeal process.
6. It is apparent that the Council failed to take into consideration fire safety information that was submitted, by email, during the application process. The Council indicates that this was not a formal fire statement but that such a statement was included as part of the appellant's appeal submission. However, whilst Policy D12 requires that all development proposals must achieve the highest standards of fire safety, it does not stipulate that a Fire Statement is required for the proposal as it not major development. Furthermore, based on what is before me, the information provided during the application process is the same as that submitted with the appeal documents.
7. Accordingly, I can see no reason why the submitted fire safety information was not taken into consideration by the Council. Nonetheless, this did not result in any significant additional work as the applicant has quickly and easily rebutted the Council's position without wasted expense.
8. The applicant submits that the Council acted unreasonably as it failed to provide an appeal statement having indicated in the questionnaire that it would do so. However, the Council is not obliged to provide a Statement of Case (SoC) and, in this case, the officer report adequately explains why planning permission was refused. Indeed, the appellant's SoC displays a clear understanding of the basis for the Council's objections.
9. The questionnaire also indicated that the Council did not give the appropriate publicity to the application. Nevertheless, as will be seen from my decision, I am satisfied that the Council has discharged the publicity requirements of the Town and Country Planning (Development Management Procedure) Order 2015.
10. As such, I do not consider the incorrect information in the questionnaire, or the failure to provide a SoC, to amount to unreasonable behaviour.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Elaine Moulton

INSPECTOR