



Costs Decision

Site visit made on 12 November 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2025

Costs application in relation to Appeal Ref: APP/U5930/W/24/3344610

37 Morris Road, Waltham Forest, Stratford E15 2BQ

- 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 Ali Hayirli for a full award of costs against Waltham Forest London Borough Council.
 - The appeal was against the failure of the local planning authority to give notice within the prescribed period of a decision on an application for planning permission following the failure to respond within the prescribed period to a notice served under Article 12(1) of the Town and Country Planning (Development Management Procedure (England) Order 2015 (as amended) for change of use and conversion (with external alterations) 1 storey rear extension to form 2 flats and associated works.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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. In respect of validation, the relationship with nearby properties will be a material consideration. However, I have concluded that the details provided on the proposed elevation enabled the Council to assess this. Due to the limited nature and scale of the proposal I consider that it was not reasonable for the Council to require that the same details are repeated on the existing elevation.
4. Turning to the Council's indicated reasons for refusal, I have largely agreed with the Council in respect of living conditions. Although there are matters of detail where I have disagreed, the Council's overall conclusions on this issue are not unreasonable.
5. However, the Council's second indicated reason for refusal relates to cycle and refuse storage. An Inspector in a Previous Appeal Decision relating to 3 dwellings on the site had concluded that this matter could be addressed by condition. I have also reached the same conclusion in respect of 2 dwellings. The Council has not provided substantive evidence as to why the circumstances of the smaller scale proposal before me are materially different from the previous scheme.
6. The Council submits that its Highways Team as well as its Waste and Recycling Team were not provided an opportunity to comment on the proposed cycle parking and waste management arrangements. However, it has had the opportunity to do

so as part of the appeal process, and it has confirmed that no internal or external department was consulted regarding this appeal notification. The Council has therefore failed to substantiate this reason for refusal or set out why it could not be addressed by a suitable planning condition.

7. I am mindful that in dismissing the appeal, my decision may indicate that this appeal could not have been avoided. However, had the Council validated the application, the appellant could potentially have had the opportunity to consider the Council's concerns, including whether those concerns could be addressed as part of the application process or through an amended planning application. Furthermore, the appellant would have been able to assess if an appeal was worthwhile. Instead, the appellant has had to submit the appeal in order to establish the Council's potential reasons for refusal. Fundamentally, it is the Council's unreasonable behaviour in not validating the application that has led to this appeal.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Waltham Forest London Borough Council shall pay to Mr Ali Hayirli, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Waltham Forest London Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Cross

INSPECTOR