



Costs Decision

Site visit made on 4 March 2025

by N Kempton BAHons PGDip MA IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2025

Costs application in relation to Appeal Ref: APP/W5780/W/24/3355478 115-123 and 127-131 High Street Barkingside, Redbridge, Ilford, IG6 2AJ

- 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 Barkingside Real Estate Ltd for a full award of costs against the Council of the London Borough of Redbridge.
 - The appeal was against the refusal of planning permission for two- storey side extension and first floor rear extension to create new entrance and stairwell. Two storey upwards extension including new stairwell at 2nd floor to create 9x new residential units (2x one- bedroom and 7x two- bedroom flats) with associated cycle and refuse storage.
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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 heart of the applicant's claim is that the Council was unreasonable in its decision-making, refusing the scheme that is sufficiently similar to a scheme previously approved under Prior Approval, failing to consider the 'fallback' scheme and failing to balance material considerations.
4. The PPG sets out that a local planning authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal, for example, by preventing development which should clearly be permitted, by failing to produce evidence to substantiate each reason for refusal on appeal, or by making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. In addition, it cites not determining similar cases in a consistent manner and failing to grant a further planning permission for a scheme that is the subject of an extent permission where there has been no material change in circumstances as examples of unreasonable behaviour.
5. The delegated report and appeal statement clearly set out the factors which led the Council to its conclusion on the planning merits of the case. The Council considered the submitted evidence and assessed the proposal against the policies of the development plan and the National Planning Policy Framework. As such, the Council presented a plausible case and substantiated the reasons for refusal.

6. In determining the application, the Council also had regard to the appeal sites' planning history. The weight attributed to the existing Prior Approval scheme as a fallback position is ultimately a matter of judgement. The Council were reasonably clear in their approach.
7. Moreover, the appeal scheme differs from the Prior Approval in aspects of design, layout, number of units and dwelling mix. Furthermore, the Prior Approval scheme was not required to be assessed against the policies of the development plan. Given these differences in circumstances, it was not unreasonable of the Council to come to a different conclusion with respect to the appeal proposal.
8. Whilst the applicant suggests that the planning balance carried out by the Council was inadequate, it is not shown that had they acted otherwise the scheme would have been approved, thereby avoiding the need for an appeal altogether. Indeed, it will be seen from my decision that there were sound grounds of objection on its planning merits.
9. The Council has not therefore behaved unreasonably with respect to the substance of the matter under appeal. It follows the applicant has not wasted expense in testing that judgement at appeal.

Conclusion

10. Therefore, 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.

N Kempton

INSPECTOR