



Costs Decision

Site visit made on 6 March 2025

by **A M Nilsson BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th April 2025

Costs application in relation to Appeal Ref: APP/X5210/W/24/3354215 20 Busby Place, Camden, London NW5 2SR

- 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 Euston Properties Ltd for a full award of costs against the Council of the London Borough of Camden.
 - The appeal was against the refusal of planning permission for the change of use from a 6-bedroom single family dwelling house (Class C3) to a large 11-bedroom house in multiple occupation (Sui Generis) with minor external alterations including the erection of a bike store.
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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 acted unreasonably on a number of grounds. These include a failure to engage on legal submissions relating to low-cost and affordable housing, and the failure to review the applicant's legal agreement.
4. Although I have formed a different view, the Council gave a reasonable analysis of why, having regard to development plan policy, they considered that the development triggered the requirement for securing it as a long-term addition to the supply of low-cost housing or otherwise provide an appropriate amount of affordable housing. Whilst the Council's consideration differed to that put forward by the applicant and in the submitted Counsel opinion, I do not consider that their actions amounted to unreasonable behaviour. The Council have confirmed that the Counsel opinion was considered and acknowledge how it reflects the arguments put forward in the applicant's statement of case.
5. In terms of the alleged failure to review the applicant's legal agreement, the timeline shows how this was not before the Council at the time of making their decision. It was subsequently held that the absence of an agreement was a reason to refuse planning permission. Having regard to development plan policy relating to the requirement to secure developments as car-free, this was not unreasonable.

6. A completed agreement was submitted with the appeal. The Council chose not to review the document as the applicant had not agreed to pay for the Council's legal fees. Although the power to secure payment for legal fees is discretionary, the request for them prior to review by the Council's legal representative is not unreasonable. This is despite my own consideration of the agreement as part of the appeal process.
7. The applicant considers that the Council did in fact review the document and has presented correspondence with the Council's legal representative. The Council consider that this was solely general correspondence and not a review of the agreement. Either way, this does not amount to unreasonable behaviour.
8. The planning history and the submitted correspondences appear to suggest that there has been sustained dialogue over a long period of time concerning developments at the appeal site. Whilst there is dispute in relation to the appeal development, I do not consider that unreasonable behaviour has been demonstrated. The Council have outlined how they have sought to assist the applicant, including advising on amendments to the scheme, and indeed recommended that planning permission be granted subject to the completion of a legal agreement.
9. I acknowledge how the other reasons for refusal, particularly in relation to living conditions, was not part of the initial recommendation, and that this would no doubt be frustrating to the applicant. The Council is not, however, bound by the recommendation and it is not unreasonable that a case may be reviewed before a final formal decision is made. I have also agreed with the Council, as a matter of planning judgement, that the development does not provide acceptable living conditions when taken as a whole.
10. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A M Nilsson

INSPECTOR