



Costs Decision

Site visit made on 10 January 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 17 January 2022

Costs application in relation to Appeal Ref: APP/A5270/W/21/3276106 10 Dane Road, Southall UB1 2EA

- 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 O P Sehdev for a full award of costs against London Borough of Ealing.
 - The appeal was against a refusal of planning permission for the conversion of existing single dwelling house (Use Class C3) into a House in Multiple Occupation (Use Class Sui Generis - 9 bedrooms 10 person); incorporating a rear roof extension, a part two, part single storey side and rear extension; associated cycle parking and refuse storage (following demolition of existing garage).
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Decision

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

Reasons

2. 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. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, which can include a failure to determine cases in a consistent manner.
3. The appeal application was refused by the Council primarily due to the size of the communal space, which was considered inadequate to comfortably accommodate the needs of its occupiers. This communal space was considered insufficient, irrespective of whether the proposal would accommodate 10 or 15 persons.
4. In this context, the applicant has provided examples of a number of applications for development similar to the proposal under consideration in this appeal, which the Council has approved. In particular, application reference 194312FUL, relating to 2A Stanley Road, Southall, granted permission on 21 May 2020 for a "*change of use from dwelling house (C3 Use Class) into house in multiple occupancy (HMO) (Suit Generis Use Class) with up to 10 bedrooms and 10 people*" (2A Stanley Road Permission). In this earlier application, the proposed occupancy and number of bedrooms were very similar to the development now proposed, but the kitchen/communal facilities were in fact smaller.

5. The 2A Stanley Road Permission is markedly similar in substance to the appeal application. Nonetheless, despite the communal facilities in the present application being larger than those proposed under the 2A Stanley Road Permission, the 2A Stanley Permission was granted.
6. Whilst I do not consider that the 2A Stanley Permission justifies approval of the present application (as I agree the communal facilities are indeed inadequate), had the Council have determined the 2A Stanley Permission consistently with the present appeal, then it too would have been refused. Had this been the case, the appellant would have been more likely to adapt its proposals in respect of the appeal property to meet the Council's requirements, which consequently could have avoided the need for any appeal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified in this instance.

Costs Order

8. 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 London Borough of Ealing shall pay to Mr O P Sehdev, 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.
9. The applicant is now invited to submit to London Borough of Ealing, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

James Blackwell

INSPECTOR