
Costs Decision

Site visit made on 6 September 2016

by Elizabeth Pleasant DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 September 2016

Costs application in relation to Appeal Ref: APP/T5720/D/16/3151864 53 Sandringham Avenue SW20 8JY

- 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 Claud Rapose for a full award of costs against the Council of the London Borough of Merton.
 - The appeal was against the refusal grant approval required under Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a ground floor rear extension.
-

Decision

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

Reasons

2. Planning Practice Guidance advises that irrespective of the outcome of the appeal, costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application for costs was made on the grounds that the Council has misdirected itself by refusing the application on grounds that did not relate to the impact of the proposal on the amenity of any adjoining premises which is contrary to the provisions of Schedule 2, Part 1, Class A, Paragraph A.4 (7) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
4. Paragraph A.4 (7) of the GPDO requires the local planning authority to consider the impact of the proposed development on the amenity of any adjoining premises when any owner or occupier of any adjoining premises objects to the proposed development. Paragraph 026 of the Planning Practice Guidance makes it clear that a local planning authority cannot consider any other matters when determining a prior approval application. Therefore in this case, the Council was confined to considering only the impact of the proposal on the amenity of adjoining premises.
5. Letters of objection were received from the occupiers of adjoining premises raising a number of concerns regarding the proposed development, including concerns relating to their amenity in relation to loss of outlook, daylight and sunlight. However, the Council's reasons for refusal states only that the

proposed rear extension, by reasons of its dimensions, would be out of scale with the terrace and would unacceptably erode limited garden amenity space.

6. The Council has not provided a statement in respect of the appeal (although it did in relation to the Costs application, which I have taken into account) and sought to rely on the Officer's Delegated Report. This report, although stating that the proposal was not considered to be acceptable in terms of neighbouring amenity, does not provide any reasoning in relation to the impact it would have on the amenity of adjoining neighbours and expresses only concern over the scale of the extension in relation to the terrace and how it would erode the appeal property's garden amenity space. I therefore conclude that the Council has acted unreasonably in refusing to the grant approval required under Schedule 2, Part 1, Paragraph A.4 of the GPDO for reasons unrelated to the impact of the proposal on the amenity of adjoining premises.

Conclusion

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.

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 the Council of the London Borough of Merton shall pay to Mr Claud Rapose, the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to the Council of the London Borough of Merton, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Elizabeth Pleasant

INSPECTOR