

Costs Decision

Site visit made on 11 October 2016

by J Bell-Williamson MA MRTPI

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

Decision date: 19 October 2016

Costs application in relation to Appeal Ref: APP/Y5420/D/16/3157018 1 Rookfield Avenue, Hornsey, London N10 3TS

- 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 & Mrs Ian Rosenthal for an award of costs against the Council of the London Borough of Haringey.
 - The appeal was made against the refusal of planning permission for dormer window to rear roof to facilitate loft conversion.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably and such behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The appellants' basis for claiming costs is that the Council acted unreasonably in its assessment of the application and in reaching the conclusion that permission should be refused. The issues raised in this regard relate specifically to the Council's approval of other dormer windows on nearby properties and an alleged inconsistency in its decisions; a failure to give adequate weight to its own Design Guidelines; and a misunderstanding or misapplication of the concept of 'substantial harm'.
 4. With regard to the first issue, the Council made reference to the most directly comparable dormer, namely the one permitted at the adjacent property, No 3 Rookfield Avenue (officer's report paragraph 6.7), and drew a distinction with this and other permitted dormers in relation to the more prominent location of the appeal property as an end of terrace dwelling and its position adjacent to a public footpath (paragraphs 6.6 and 6.8). Appeals often involve matters of judgement concerning the effect of development in a particular locality. Acknowledging that such matters of judgement were involved here, I consider that the Council's evidence to support its view of the consequences of the proposed development in this location is reasonable.
 5. The Council is entitled to apply relevant weight to its own guidelines, subject to the reasons given and reasonableness of its overall decision. In this regard, the Council gave specific reasons, referring to the age of the guidance and to more
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recent national guidance and Court judgements concerning the protection and weight to be accorded to heritage assets. The fact that the appellants disagreed with this assessment does not alter this finding and in respect of this issue neither the Council's decision nor the basis on which it was reached amount to unreasonable behaviour on its part.

6. Finally, while the internal guidance from the conservation officer refers to substantial harm the Council explains that this is in relation to the cumulative effect of dormer windows rather than just in relation to the appeal proposal. Both the conservation officer's advice with regard to the appeal proposal and subsequent references in the officer's report (paragraph 6.7) are to the proposal resulting in harm that is less than substantial. This view is also documented in the Council's pre-application advice. For these reasons and despite the appellants' concerns, I can find nothing in the Council's assessment that reflects unreasonable behaviour.
7. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

J Bell-Williamson

INSPECTOR