
Costs Decisions

Site visit made on 18 October 2016

by J Flack BA Solicitor

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

Decision date: 01 November 2016

Costs application in relation to Appeal Ref: APP/F5540/W/16/3151055 35 Bath Road, London W4 1LJ

- 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 Ben Burdsall for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against the refusal of planning permission for installation of conservation-style attic roof light to rear roof slope.
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Costs application in relation to Appeal Ref: APP/F5540/Y/16/3151057 35 Bath Road, London W4 1LJ

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Ben Burdsall for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against the refusal of listed building consent for installation of conservation-style attic roof light to rear roof slope.
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Decision

1. The applications for an award of costs are refused.

Reasons

2. The Government's Planning Practice Guidance (the Guidance) 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. As the appellant points out, the Guidance advises¹ that a local planning authority is at risk of an award of costs if, amongst other things, it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations or does not determine similar cases in a consistent manner. However, the Guidance also advises² that where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there

¹ Reference ID: 16-049-20140306

² Reference ID: 16-050-20140306

should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.

4. The appellant states that he has received successive contradictory advice from the Council. I note that there was a previous scheme which, as originally proposed, included two high level roof lights to the rear roof slope. However, these were successively deleted. The appellant states that the proposed left hand roof light was deleted on the basis of Council advice that it was not in itself problematic, but would be better dealt with as part of a separate later application. However, the appellant has not provided any evidence to support this assertion.
5. The evidence before me is instead that the Council has rejected proposals that have included high level roof lights of the nature proposed by the current appeals. Although it appears that the Council would have found a low level roof light acceptable, this would have been adjacent to a large dormer window, and I have found that the expanse of the rear upper roof slope at the appeal house forms a distinct and important element of the simple pitched roof form, making a materially positive contribution to the listed building.
6. It is clear that the Council has accepted the installation of roof lights and other more substantial works to other listed houses in the vicinity. However, the evidence presented to me has not convinced me that the contexts and circumstances of these works were substantially similar to those of the appeal proposal to a degree sufficient to demonstrate that the Council has acted inconsistently, or so as to undermine the credibility of its case in relation to the appeal proposal.
7. In any case, the appeal proposal is ultimately to be determined on its own merits. For the reasons given in my decisions on the appeals, I have concluded that proposal would fail to preserve the special architectural interest of the listed building and the character and appearance of the conservation area, and that this harm would not be outweighed by public benefits. The proposal would thus not be in accordance with the development plan or national policy. I accordingly consider that the Council's refusal of the applications was soundly based and does not amount to unreasonable behaviour.
8. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. The applications for an award of costs are therefore refused.

J Flack

INSPECTOR