
Costs Decision

Site visit made on 15 December 2016

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 03 January 2017

Costs application in relation to Appeal Ref: APP/A5840/D/16/3158902 77 Ivydale Road, London SE15 3DS

- 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 Richie Atkinson for a full award of costs against the Council of the London Borough of Southwark.
 - The appeal was against the refusal of planning permission for the construction of a loft conversion using a rear 'L' shaped dormer extension plus two roof lights to the front roof slope to provide additional residential accommodation.
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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 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 reason for refusal, which refers to effect of raising the roof ridge on the host building, Ivydale Road and the local area, is precise, specific and relevant with reference to relevant development plan policies. The Officer's report elucidates that reason in some detail. It clearly explains the importance that the Council attaches to retaining a level ridgeline between 75 and 77 Ivydale Road. It also sets out the harm that in the Council's view would arise from even a modest increase in the height of the roof of No 77 particularly for the character and appearance of the street scene and the local area. That evidence provides a reasonable basis for the Council's stance.
4. The Officer's report does not refer to a recent appeal decision¹ for a similar form of development to the proposal at 291 Ivydale Road or to a mansard roof extension at 4 Sharsted Street, which was also the subject of an appeal². However, Nos 4 and 291, being some distance from the site, do not share the same relationship with the adjoining properties on each side as the proposal nor do they occupy part of the same street scene as No 77. The local topography specific to the site also had a significant bearing on the Council's assessment. I am not convinced that either of these appeal decisions was

¹ Ref APP/A5840/D/15/3136834 dated 20 February 2016

² Ref APP/A5840/D/11/2154850 dated 16 August 2011

sufficiently comparable with the proposal to allow direct parallels to be drawn between them. To my mind, the Council's approach, which was to focus on the particular circumstances of the site and the proposal, with no explicit reference to these previous appeal decisions or to roof level extensions on other properties, was not unreasonable.

5. It may be, as the appellant suggests, that the appeal scheme would qualify as permitted development save for the raising of the roof ridge. However, planning permission was sought for the development as a whole and the Council considered it on that basis. It was specifically the proposed increase in ridge height that the Council found to be objectionable.
6. My assessment of the effect of the proposal on the host building and the local area and my use of the 2015 Technical Update to the Residential Design Standards (2011) in relation to floor to ceiling heights differ from the Council's approach. This arose mainly because I made different judgements on the evidence before me, rather than because of any inadequacies in the Council's case. That I came to a different conclusion, and supported the appellant's case, does not mean that the Council failed to show clearly why in its view the development should not be permitted or that it failed to substantiate its case.

Conclusion

7. Overall, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

Gary Deane

INSPECTOR