
Costs Decision

Site visit made on 1 November 2016

by R J Perrins MA MCMI Arbor TechArborA

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

Decision date: 05 January 2017

Costs application in relation to Appeal Ref: APP/L5810/W/3148616 80 St Margarets Grove, Twickenham TW11 1JG

- 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 and Mrs Paul Connolly for a full award of costs against the Council of the London Borough of Richmond-upon-Thames.
 - The appeal was against the refusal of planning permission for a single storey rear extension.
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Decision

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

Preliminary matter

2. The planning appeal subject of this costs application runs at the same time as two others¹. Those appeals have been made against the Council's serving of an enforcement notice to secure removal of the extension built at No 82 and against the Council's refusal for permission of a joint application, from the owners of both Nos 80 and 82, for a single storey extension spanning the width of both properties and incorporating that built at No 82. All three appeals have costs applications made by the appellant(s).
3. It is inevitable, given the close association of the appeals and appellants, the representations therein and the same agent being used for all appeals, that some aspects of the costs claims are similar. Nevertheless for the purposes of clarity I have dealt with each claim separately.
4. The Council were reminded in writing on 8 November 2016 that a response was required to this costs application. No response has been forthcoming.

Reasons

5. Paragraph 030 of the Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
6. The appellants set out that it was unreasonable for the Council to refuse permission given the permitted extension at No 82. That extension is of a similar design and covers the same footprint and the neighbour has no

¹ APP/L5810/C/3144115 & APP/L5810/W/3141150

objections to it. In addition the Council have set out that two extensions would be acceptable but were unreasonable in seeking assurances that the development would be built by way of a legal agreement. That would be contrary to the advice in the Planning Practice Guidance. In addition a condition could have been used to seek completion of the development and the 18 months being suggested for the legal agreement was untenable.

7. Turning to the matter of the legal agreement, condition and completion period, the Council's decision notice does not give the absence of a legal agreement as a reason for refusal nor does it form part of their case in respect of this appeal. In that light it has not formed part of my deliberations in respect of this costs application.
8. Whilst the Council have not responded directly to this costs application it is clear to see that they have refused permission based on the issues I have identified in my appeal decision. Namely, living conditions and character and appearance. I have disagreed with the Council's stance on both aspects, in respect of living conditions, and without a response to the application, it seems to me, for the reasons I set out in the appeal decision, that the Council were unreasonable in not considering the fallback position, the existing extension (albeit unlawful) at No 82 and the on-going planning history.
9. Nevertheless, the extension would be at odds with the advice in Local Plan Supplementary Planning Document *House Extensions and External Alterations* in terms of dimensions and, whilst the guidance is subject to site specific circumstances, matters regarding the impact a proposed development would have on character and appearance are subjective. The Council were not unreasonable in coming to the view they did in that regard. Therefore it seems to me that the costs of an appeal would have had to be borne in any event.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Richard Perrins

Inspector