

Costs Decision

Site visit made on 29 December 2016

by D Cramond BSc MRTPI

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

Decision date: 19 January 2017

Costs application in relation to Appeal Ref: APP/T5720/D/16/3161634 62 Grasmere Avenue, London, SW19 3DX

- 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 Mo Karim for an award of costs against the Council of the London Borough of Merton.
 - The appeal was made against the refusal of an application which sought planning permission for the erection of a single storey front extension; first floor side infill extension; a single storey rear/side extension; erection of an extension to roof slope and a rear roof extension; remodelling of existing garage; installation of a window to the rear elevation.
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Decision

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

Reasons

2. Planning Practice Guidance (guidance) advises that, irrespective of the outcome of the appeal, costs may only 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 Appellant considers that there has been unreasonable behaviour by the Council in determination of the proposal. The Appellant argues that the planning officer refused permission twice despite other properties in the same road having had the same front extension approved in recent years. The point is made that the drawings and design access statement clearly identify the planning history. The agent met the planning officer on site and highlighted the other house with the same extension. This had been granted by a different planning officer. It is claimed that the Council's unreasonable decision has led to costs including the time taken to prepare the appeal, search the planning history of other properties in detail, visit archives and general time for administration.
 4. In response to the Appellant's claims, the Council indicates that the case officer noted any front extensions along Grasmere Avenue and checked the planning history of each of them. It was outlined in the case officer's delegated report that the only approved extension (at No 44 LB Merton reference 07/P0087) which was comparable to the application at No 62 differed in that it was adjacent to a garage whereas the proposal at No 62 is adjacent to a habitable room. There was therefore deemed to be more impact on neighbour amenity which is not the case at No 44. The Council provides annotated prints of the
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plans for both the appeal scheme and the scheme cited as a precedent application. The Council suggests that notwithstanding the similarities between the proposed front extensions it is the context that is important and that in this instance the proposals would intrude into the outlook from the front ground floor splayed bay at 64 Grasmere Avenue. Working on the principle that each planning application must be considered on its merits, the Council puts the case that the differences between the two sites are such that it has not acted inconsistently or unreasonably in allowing one proposal and refusing another.

5. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full or, indeed, partial, award of costs.
6. Determinations of many planning applications are, of necessity, matters of judgement rather than empirical evidence or science. The case officer's report appears professional in its approach and largely comprehensive in the relevant matter covered. It clearly sets out a principal difference between an existing extension which is being used as a 'precedent' for the disputed extension.
7. The matter is well described by the Council and it provided a respectable background for the refusal reason and I consider that its explanation was sufficiently complete for the Appellant to be able understand and seek to counter the issues. The Council not unreasonably found flaws with the scheme it had to determine. I appreciate an appeal process is time and fee consuming. However I would conclude that the Council's commentary throughout is lucid, sufficiently full and a reflection of the judgement of those who determined this proposal; it has provided a respectable standpoint within the reason set out on the decision notice and as the background and justification in reaching that decision; the Council's stance was certainly not in any way inconsistent or irrational.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR