
Costs Decision

Site visit made on 20 December 2016

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 27 January 2017

**Costs application in relation to Appeal Ref: APP/R5510/D/16/3163583
65 Queens Walk, South Ruislip, Middlesex HA4 0LX**

- 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 Rish Udhian for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against the refusal of planning permission for ground and first floor rear/side extension (part single storey and part double storey); first floor side extension over existing ground floor side extension.
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Decision

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

Reasons

2. National Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeals process.
 3. The applicant is seeking a full award of costs on the basis of the procedural nature of the local planning authority's behaviour. Specifically the applicant states that during discussions with the local planning authority about the proposal it was never suggested that the proposed study would be considered to be a habitable room. Had such a position been made known the applicant indicated that changes would have been made to the scheme to address this concern. Moreover, whilst the study formed part of a similar scheme for which planning permission was also previously refused, the matter was not a reason for refusal in that case. Consequently the applicant claimed that the Council's behaviour was unreasonable and necessitated the appeal.
 4. The Council's case is that it refused the planning application because it did not accord with the development plan and that there were no material considerations to indicate that planning permission should have been granted. On this basis, as outlined in paragraph 50 of the PPG the Council claimed that it had not acted unreasonably.
 5. In its reason for refusal the Council made specific reference to development plan policies and the adopted Supplementary Planning Document. In reaching my decision I found that there was conflict with the development plan but that the harm was limited. Consequently, although reaching a different conclusion from the Council I consider that it was not unreasonable for the Council to
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reach the decision that it did and therefore there are no grounds for an award of costs against the Council in line with the guidance in paragraph 50 of the PPG.

6. With regard to the use of the proposed study the Council's position was that it determined the application on the basis of the internal layout of the extension as presented and as being a habitable room. I consider that the Council was justified in considering the application on the basis of the definition of a habitable room with reference to policy and guidance. Furthermore, Council did not behave unreasonably in not raising the matter with the applicant when the proposal was contrary to development plan policy. Having decided that the proposal was contrary to policy in this case the Council was justified in refusing the application on this basis irrespective of the approach it took in respect of a previous scheme.
7. Having weighed the evidence before me I conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in PPG has not been demonstrated. For this reason an award of costs is not justified.

Kevin Gleeson

INSPECTOR