The Planning Inspectorate

Costs Decisions

Site visit made on 10 January 2017

by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)

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

Decision date: 1 March 2017

Costs application in relation to Appeal Ref: APP/Y1945/C/16/3151202
50 Orchard Drive, Watford, WD17 3DY

- The application is made under the Town and Country Planning Act 1990, Sections 174, 322 and Schedule 6, and the Local Government Act 1972, Section 250(5).
- The application is made by Oscar Goldman for a full award of costs against Watford Borough Council ("the Council").
- The appeal was against an Enforcement Notice alleging without planning permission, the erection of a part two storey, part single storey side and rear extension. Loft conversion involving the installation of a hip to gable extension, two rear dormers and front and rear roof lights.
  Summary of Decision: The application is refused.

Costs application in relation to Appeal Ref: APP/Y1945/W/16/3151243
50 Orchard Drive, Watford, WD17 3DY

- 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 Oscar Goldman for a full award of costs against the Council.
- The appeal was against the refusal of planning permission for the erection of a part two storey, part single storey rear extension and a single storey side extension. Loft conversion involving the installation of a hip to gable extension, two rear dormers and front and rear roof lights. Installation of a pitched roof to the outrigger element whilst reducing the outrigger soffit level to match the original roof soffit.
  Summary of Decision: The application is refused.

Reasons

1. The Planning Practice Guidance ("the PPG") 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.

2. I was also referred to:

   a) Other advice in the PPG.

   b) Parts of the Council's Planning Enforcement Plan 2015 ("the PEP").

3. I do not accept that the Council did not have regard to Inspector Roland's Appeal Decision dated 26 October 2015 ("the Appeal Decision") when determining the planning application Reference 16/00215/FULH ("the Appeal Application"). Reference was made to the Appeal Decision in the delegated Officer's Report detailing why the Appeal Application should be refused. The decision to refuse the Appeal Application was a matter of planning judgement and does not of itself amount to unreasonable behaviour.

4. The Enforcement Notice was issued shortly after the refusal of Appeal Application. It seems highly unlikely to me that the Council did not have regard to the Appeal Decision when deciding to take the enforcement action which resulted in the service of the Enforcement Notice.

5. It is suggested that the Council did not act in a positive and proactive manner. Following the Appeal Decision the Council responded to the applicant's suggested alterations to the unauthorised development which Inspector Roland had found to be unacceptable. Having informed the applicant that neither of the suggested alterations would be acceptable the Council suggested what action the applicant should take. The applicant then submitted formal applications for both of the options that the Council had indicated were unacceptable to them.

6. I do not consider that the Council failed to act in a positive or proactive manner. They responded to the informal requests made following the Appeal Decision and then they determined the two planning applications. At the time the Council issued the Enforcement Notice there was (as far as I am aware) no alteration to the unauthorised development proposed by the applicant.

7. When the Council issued the Enforcement Notice they served copies on the mortgagees of No. 50. This is common practice and clearly does not amount to unreasonable behaviour by the Council. The mortgagees need to know about enforcement action as the liability for compliance would rest with them if they became mortgagees in possession.

8. I have explained in my Appeal Decision that the Council did not require the removal of those parts of the unauthorised development which would have been permitted development had they been carried out as discrete operations rather than as part of a single building operation. I do not consider that the Council acted unreasonably in requiring the rest of the unauthorised development to be demolished even though parts of it may have been the same as that permitted by the 2014 Planning Permission. Neither do I consider that the terms of the Enforcement Notice were contrary to the Council's PEP.

9. The reasons why the Council took enforcement action are set out in paragraph 4 of the Enforcement Notice. Reference was made in that part of the Enforcement Notice to the relevant policies in the Development Plan and the National Planning Policy Framework and advice in the relevant Supplementary Planning Guidance.

10. I do not agree with the applicant that the Council should have waited until the expiry of the period for appealing the Appeal Application before taking enforcement action. The Council had given no indication that they would do so and such a procedure is not supported by any policy or advice to which I was referred.

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Formal Decision

12. The applications for awards of costs are refused.

Tim Belcher **- Inspector**