
Costs Decision

Site visit made on 14 February 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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/H5390/W/16/3163975 14 Richmond Way, London W12 8LY

- 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 Narvin Shah (Pasil Investments Limited) for a full award of costs against the Council of the London Borough of Hammersmith & Fulham.
 - The appeal was against the refusal of planning permission for a rear roof enlargement and rear roof extension at first floor landing.
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Decision

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

Reasons

2. Planning Practice Guidance (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. The PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal.
 3. The basis of the appellant's application for costs is on the grounds that the Council acted unreasonably during the consideration of the planning application by failing to have regard to identical development constructed at No 16 Richmond Way, undertaken as permitted development, and other similar development at the rear of some properties on Richmond Way. The appellant contends that, as a consequence of the prevalence of other similar extensions, the effect of the development on the character and appearance of the area and the living conditions of the occupiers of the No 16 were no different to those effects that already ready exist at other properties. In addition, the Council did not take into account other factors such as orientation.
 4. I consider that the reasons for the refusal of the planning application were relevant to the application and clearly state the relevant policies of the London Borough of Hammersmith & Fulham Core Strategy (Core Strategy) and Development Management Local Plan (DMLP) that the proposed development would be in conflict with.
 5. It is an established planning principle that each application has to be considered on its own individual merits. In this case the Council were concerned that the proposed extension would unacceptably affect light and outlook at the rear first floor window of No 16. I also found that there would be some impact on light and outlook at this window. Although, I found that these impacts were not of an extent to justify the dismissal of the appeal,
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nevertheless they do exist and are matters referred to in the Council's Supplementary Planning Document – Rear Extensions Standards and Policies DM G3 and DM A9 of the DMLP.

6. I do not have any details of the development undertaken at No 16 or the information that the Council took into account in determining that this was permitted development. Notwithstanding this, the Council's policies do provide an obligation to consider the impact of development on the living conditions of the occupants of nearby dwellings. In this case I consider that the Council did not act unreasonably in considering those impacts or in finding that harm would be caused.
7. With regard to the issue of character and appearance, the Council found that the proposed extension would not be subservient to the original property and as such would not respect the character of the terraced block. I also found that the proposed extension would not be subservient to the original property.
8. The extent to which the proposed development impacts on the character and appearance of an area is a matter of subjective judgement guided by policies contained within the development plan. The Council properly considered the proposed development against the relevant policies contained within the Core Strategy and the DMLP. The fact that other extensions had been constructed as permitted development does not suggest that the Council should not consider new development against the requirements of those policies.
9. It is a matter for the decision maker to consider the presence of existing development in considering the effect of new development on the character and appearance of an area and the weight to be attached to this in that decision. Just because I found differently to the Council on this matter does not mean to say that it was wrong in its approach or subjective judgement regarding the consideration of the impact on character and appearance.
10. The fact remains that the proposed extension, in combination with a variety of previous extensions, does give the appeal property a bulky appearance that cannot be considered to be subservient. Although I attached significant weight to the presence of existing development does not imply that the Council acted unreasonably in attaching lesser weight.
11. Taking all of these matters into account, I find that the reasons for the refusal of the planning application were complete, precise, specific and relevant to the application. I have found that the Council had reasonable concerns about the impact on character and appearance and the effect on the living conditions of the occupants of No 16 Richmond Way which led to the decision to refuse the application. Just because I have found differently from the Council this does not mean to say that the reasons for refusal had no basis. Accordingly, I do not find that the Council failed to properly consider the merits of the scheme and therefore the appeal could not have been avoided.
12. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and having regard to all other matters raised, an award of costs is not justified.

Stephen Normington

INSPECTOR