
Costs Decision

Site visit made on 20 March 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 4th April 2017

Costs application in relation to Appeal Ref: APP/R5510/D/17/3166702 2 Hillside Rise, Northwood, Middlesex HA6 1RR

- 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 K Allison 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 first floor rear extension.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably and has thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Paragraph 49 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.
3. Examples of this, set out in paragraph 49 of the PPG and of relevance to the points raised by the appellant in the application for an award of costs include:
 - Not determining similar cases in a consistent manner.
4. There are four previous applications relating to the appeal property. Two of those applications¹ relate to Certificates of Lawful Development for a Proposed Development. The only considerations in such cases are whether the proposals would constitute permitted development. Consequently, they are not relevant to the costs application.
5. A 2011 application² involved the re-building of the ground floor extension and a full gable end elevation. It would appear from the limited evidence before me that the rear extension would have had less depth from the rear elevation than the current proposal which retains the depth of the existing extension. This application is consequently materially different to the current appeal proposal.
6. An application³ for a single storey rear extension and conversion of roof space to habitable use to include a rear dormer, 3 front roof lights and conversion of

¹ Application reference 67933/APP/2012/413; Application reference 67933/APP/2015/764

² Planning application reference 67933/APP/2011/1732

³ Planning application reference 67933/APP/2014/4027

roof from hip to gable end with a new gable end window was refused in 2014 on the grounds of character and appearance.

7. I have compared the plans of the 2014 application with those of the current appeal proposal. The design of the front and side elevation facing Lyndhurst and the rear dormer are different to the current appeal proposal. However, from the information before me the proposed elevation facing number 4 Hillside is very similar to the current appeal proposal. It would extend a similar depth; be a similar height and have a similar roof profile. It would also have a single roof light as per the appeal proposal.
8. The 2014 officer report states that *'given the depth of the rear extension and the spacing and changing level between neighbouring buildings it is considered that there would be no significant adverse impact in terms of loss of light or privacy, or overlooking or any overbearing impact or visual intrusion to the adjoining properties that would justify a refusal of permission. Therefore, it is considered that the rear extension and the roof extensions would be considered acceptable in this regard'*. The Council did not raise concerns regarding the effect of the 2014 application on the living conditions of the occupiers of No 4 Hillside, despite the clear similarities with the current appeal proposal on that elevation. Consequently, I consider that the Council have reached a different conclusion in this case. I consider that the Council has behaved unreasonably in this respect.
9. The effect of the proposal on the living conditions of No 4 is the only ground for refusal and thus it is clear that additional unnecessary expense has been incurred in addressing this issue, including commissioning a planning agent to prepare a detailed statement. Accordingly, the conditions for a full award of costs apply.

Conclusion

10. For the reasons set out above I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. Accordingly a full award of costs is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Hillingdon shall pay to Mr K Allison, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to the Council of the London Borough of Hillingdon, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Caroline Mulloy

Inspector