
Costs Decision

Site visit made on 13 April 2017

by William Fieldhouse BA (Hons) MA MRTPI

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

Decision date: 26th April 2017

Costs application in relation to Appeal Ref: APP/L5810/D/17/3170913 28 West Temple Sheen, East Sheen, London SW14 7AP

- The application is made under sections 78, 322 and Schedule 6 of the Town and Country Planning Act 1990, and section 250(5) of the Local Government Act 1972.
- The application is made by Mr Gordon Hunt for a full award of costs against the Council of the London Borough of Richmond upon Thames
- The appeal was made against the refusal of planning permission for: "Amendment to extant planning permission reference 08/0025/HOT. Addition of a plant room at rear, a study at second floor level, and inclusion of a section of concealed flat roof at ridge. Updating of elevational treatments; on front elevation modifying window openings and replacing a single dormer with two small dormers. On rear elevation extending width of ground floor glazing and adding a subsidiary gable, set back from that already permitted, to facilitate addition of study area. Upgrading of insulation to increase thermal efficiency and inclusion of rainwater harvesting."

Decision

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

Reasons

2. Planning Practice Guidance ("PPG") advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process¹. I shall, therefore, consider whether that has occurred in this case.

Substantive Issues

3. The Council's assessment of the proposal is set out at some length in the officer's planning report. This refers to the planning background, describes the site, surroundings and current proposal, and sets out the relevant policy framework. Distinct elements of the scheme are described and assessed, including those that are considered acceptable and those that are not. The decision notice clearly identifies the aspects of the proposal that the Council considers would cause harm, the effect that they would have, and the conflict that would arise with relevant development plan policies. I do not agree, therefore, that the reason for refusal is generalised, vague or unsubstantiated.
4. Ultimately, the effect on the character and appearance of the area is a matter of subjective judgment and it is clear to me that, even though I reached a different conclusion on the main issue, the Council made its assessment in a

¹ PPG ID16-028 and 029.

rational manner based on relevant information. The evidence before me does not, therefore, indicate that the Council acted unreasonably in any substantive way in assessing the proposal or determining the planning application.

Procedural Issues

5. Following the refusal of permission for a different scheme in 2015, the applicant employed a planning consultant and sought advice from the Council with the aim of overcoming the reason for refusal prior to making the application that led to the current appeal. Whilst the Council provided written advice, it appears that the applicant went to great length to seek clarification and negotiate amendments to the scheme but the Council failed to engage. The design was therefore amended on the basis of the written advice, and then again during the course of the application following further feedback from the Council. On this basis, the applicant got the impression that the scheme would be approved and was therefore surprised to receive the negative decision when it was formally issued.
6. I do, therefore, have sympathy with the applicant who has clearly gone to considerable effort to engage with the Council, address its concerns, and thereby come up with an acceptable design. However, whilst pre application advice should provide a clear and authoritative view on the merits of a proposal, it cannot pre-empt the democratic decision-making process or a particular outcome². In this case, officers did genuinely attempt to adopt a positive approach and negotiate improvements to a proposal that would entail substantial extensions and alterations to an existing house. Therefore, whilst the Council could have been more responsive and potentially have provided clearer more consistent advice, I am not persuaded that its handling of the pre application enquiry or planning application should be regarded as unreasonable.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for costs is refused.

William Fieldhouse

INSPECTOR

² PPG ID20-10 and 11.