
Costs Decision

Site visit made on 12 April 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 12 May 2017

Costs application in relation to Appeal Ref: APP/F5540/W/17/3167520 2a Myrtle Road, Hounslow TW3 1QD

- 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 Khan for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against a grant of planning permission subject to conditions for the erection of a first floor side extension, a rear roof dormer, and the installation of one roof light to the front-facing roof slope and one roof light to the rear-facing roof slope.
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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, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. It also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded.
 4. Paragraph 49 of PPG sets out a non-exhaustive list of examples of unreasonable behaviour in substantive terms which may put a Council at risk of an award of costs. Relevant to the case of this application, it states that imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in Framework, could be considered unreasonable.
 5. Whilst subject to a separate Decision, I have found that all three of the disputed conditions were unnecessary to the planning permission that was granted. As such, I can make no other conclusion than that the appeal against them would not have been needed; the development applied for would have been acceptable in planning terms in the absence of the conditions in question.
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6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

7. 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 Hounslow shall pay to Mr Khan, 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.
8. The applicant is now invited to submit to The Council of the London Borough of Hounslow, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

John Morrison

INSPECTOR