
Costs Decision

Site visit made on 2 May 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 17th May 2017

Costs application in relation to Appeal Ref: APP/T5150/D/17/3172354 137 Chatsworth Road, London NW2 5QT

- 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 Vekaria for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was against the refusal to grant approval required under Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for 'demolition of existing rear store and detached garage, and erection 6m single-storey rear extension to increase habitable space in the single dwellinghouse'.
-

Decision

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

Reasons

2. Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, 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. Examples of this, referred to by the applicant, include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
 3. In my Appeal Decision, I have found that it has not been demonstrated that the appeal proposal would constitute permitted development under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). However, the Council did consider the proposal to be permitted development and therefore notified adjoining occupiers about the proposal. Because the adjoining occupiers at 139 Chatsworth Road objected to the proposal, in accordance with the provisions of Schedule 2, Part 1, Paragraph A.4 of GPDO, the Council duly proceeded to consider the impact of the proposed development on the amenity of adjoining premises and subsequently refused to grant prior approval.
 4. The reason for refusal set out in the Council's decision notice is complete, precise and relevant to the proposal. It clearly sets out that the proposed
-

development would conflict with Policy DMP1: Development Management General Policy of the Brent Development Management Policies Development Plan Document and the Brent Supplementary Planning Guidance 5 – Altering and Extending Your Home.

5. The Council's Delegated Report substantiates the reason for refusal, taking account of the evidence submitted by the applicant, the existing extension at No 139, the orientation of the garden, the Council Officer's site observations and representations from the occupiers of No 139. Moreover, it adequately demonstrates how the Council considers the proposal would have a harmful impact on the amenity of the occupiers of No 139, with particular regard to an overshadowing effect in the morning and an overbearing effect due to the height and projection on the common boundary.
6. In conclusion, for the reasons set out above, I find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG and referred to by the applicant, has not been demonstrated.

CL Humphrey

INSPECTOR