
Costs Decision

Site visit made on 9 May 2017

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 25 May 2017

Costs application in relation to Appeal Ref: APP/R5510/D/17/3170160 157 Beverley Road, Ruislip HA4 9AP

- 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 Alex Morgan 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 a part single, part two storey side extension and part single, part two storey rear extension.
-

Decision

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

Reasons

2. The 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 or wasted expense in the appeal process.
3. It goes on to say 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. These circumstances 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.
4. The claimant's case is essentially that the application should not have been refused as it is in accordance with Council Policy. Whilst I have allowed the appeal I did not find that the proposal complied with the requirements of the development plan in the form of saved UDP¹ Policy BE22. This requires that residential extensions and buildings of two or more storeys in height should be set back a minimum of 1 metre from the side boundary of the property for the full height of the building. The appeal proposal would not have satisfied this requirement.
5. Whilst the Council's guidance² includes an approach of a 1.5m set back just at first floor level being acceptable, this is only in situations where an existing side extension runs close to the boundary. In the appeal case there is no such existing extension. Similarly, in the appeal decision³ the claimant refers to in support of his appeal and costs claim the Inspector made it clear that the

¹ London Borough of Hillingdon Unitary Development Plan, 1998.

² Hillingdon Design and Accessibility Statement (HDAS) Supplementary Planning Document – Residential Extensions, 2008, paragraph 5.1.

³ APP/R5510/D/15/3140265.

presence of an attached garage extending close to the party boundary in that case was a material factor leading to his allowing that appeal. The circumstances of that case were therefore materially different to those of the claimant's proposal.

6. Therefore, the appeal proposal did not comply with the development plan policy or with guidance. I found that there were material considerations which indicated that a decision should be taken that was not in accordance with the development plan. These circumstances would have been apparent to the Council. Nevertheless, the degree to which these considerations might indicate a decision being taken contrary to the development plan can be a subjective matter. In this case I do not consider that the circumstances were so clear cut as to indicate that permission should have clearly been permitted, particularly given its conflict with the development plan and guidance. Consequently the Council did not act unreasonably by refusing the application.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason an award of costs is not justified.

Geoff Underwood

INSPECTOR