
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/17/3169496 Woodlands, Northgate, Northwood HA6 2TH

- 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 Harrinder Paul Singh 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 first floor over existing side extension with part front & rear double storey extensions.
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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 a failure to produce evidence to substantiate each reason for refusal on appeal, vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable¹.
4. The claimant's case is essentially that given that the Inspector's findings that a previous similar scheme² did not harm character and appearance the Council acted unreasonably in refusing the current proposal on such grounds. Further, that the Council's refusal reason relating to an absence of outlook was not supported by any specific policy or guidance.
5. Considering the Council's first reason for refusal, this was clearly focused on that element of the scheme which differed from the previous one, specifically the materially distinct fenestration arrangement at first floor in the proposed rear extension. Whilst their concerns related to character and appearance on the previous scheme this related to the overall scale and design of the proposal in that case.

¹ Paragraph: 049, reference ID: 16-049-20140306.

² APP/R5510/D/16/3151565.

6. The consideration of design matters can be subjective. Although I found no harm on character and appearance grounds the appeal site is located in an Area of Special Local Character where the development plan requires new development to harmonise with the design features and architectural style predominant in the area. In refusing the application on this ground the Council was not revisiting its previous concerns which did not relate to the materially different window design in the previous scheme. I do not consider that the Council therefore persisted in objections to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable.
7. Turning to the claimant's argument that the second reason for refusal was unreasonable, he is correct in that London Plan, 2016 Policy 3.5 does not specifically mention the outlook from housing. Despite this, the Council's Delegated Householder Decision reported that maintaining an adequate outlook is one of its requirements. The Policy specifically mentions new homes and includes considerations of size, convenience and efficiency of room layout. Whilst it is aimed at ensuring quality housing, it is of less pertinence to the detailed consideration of issues of outlook arising from an extension. Similarly the guidance³ the Council refer to is more focused on ensuring quality in new housing development and whilst this encompasses occupiers living conditions they do not emphasise outlook as a particular issue.
8. Nevertheless, the outlook from a dwelling can be a component of providing acceptable living conditions for occupiers of all developments, such that it could be a material consideration in determining the acceptability of development proposals. Despite erroneously reporting the effect of London Plan Policy 3.5, the Council's Delegated Householder Decision report provided a brief, but clear assessment of why they considered the proposal was not acceptable in this respect. Notwithstanding that I did not agree with their conclusion, the Council's reasoning falls short of being unacceptably vague or inaccurate and, although very limited, there was an element of analysis supporting their assessment.
9. I do not, therefore, consider that the Council failed to substantiate each reason for refusal or made vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis.

Conclusion

10. 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

³ Hillingdon Design and Accessibility Statement (HDAS) Supplementary Planning Document – Residential Layouts, 2006 and Mayor of London Housing Supplementary Planning Guidance, 2016.