
Costs Decision

Site visit made on 19 June 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 3rd July 2017

Costs application in relation to Appeal Ref: APP/N5660/W/17/3167298 167 Barcombe Avenue, London SW2 3BH

- 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 Ms Chantelle Kinghorn for a full award of costs against the Council of the London Borough of Lambeth.
 - The appeal was against the refusal of planning permission for development described as 'Excavation of basement with the installation of stairs at the rear and replacement of windows to the side elevation at ground floor level.'
-

Decision

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

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 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. An example of this includes 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.
 3. The reason for refusal of the appeal proposal set out in the Council's decision notice is complete, precise and relevant to the proposed development, clearly explaining why the proposal would conflict with Policy Q2 of the Lambeth Local Plan. The Council substantiate this reason for refusal in the officer report with reference to development plan policy and material considerations including a recent appeal decision relating to proposed basement excavation at the property (Ref APP/N5660/W/16/3149453).
 4. In the case of the previous appeal, the rooms were labelled as bedrooms and it was reasonable for the Inspector to conclude that they would be likely to be used for that purpose and determine the appeal on the basis of the drawings before him. That appeal was dismissed, with the Inspector finding that the bedrooms would have a restricted outlook, a strong sense of enclosure and limited light.
 5. As set out in my Decision, I have found that, notwithstanding the submitted plans which indicate the 2 main basement rooms would be an entertainment
-

cinema room and a gym/dance room, due to the modest size of the appeal property there is a reasonable prospect that over time these rooms would be used as bedrooms or living rooms. Because these rooms would not benefit from acceptable levels of outlook and daylight, my Decision concludes that the proposal would have a harmful effect upon the living conditions of future occupants of the proposed development, contrary to the amenity protection aims of Policy Q2 of the Lambeth Local Plan.

6. I therefore consider that the Council acted reasonably in refusing planning permission for this reason, and that the Council's decision was consistent with the findings of the previous appeal.

Conclusion

7. In conclusion, for the reasons set out above, I find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

CL Humphrey

INSPECTOR