
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/17/3171016 Second Floor Flat, 12 Tremadoc Road, London SW4 7NE

- 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 Edward Voisin 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 loft conversion involving the erection of a rear mansard roof extension with two rear dormer windows, erection of roof terrace and three roof lights to the front roof slope with internal and external alterations and demolition.
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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. Examples of this 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; not determining similar cases in a consistent manner; and refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
 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, and clearly sets out which development plan policies the proposal would conflict with. This reason for refusal is substantiated by the Council in the officer report and statement of case with reference to development plan policies, a relevant supplementary planning document and other material considerations, including a recent appeal decision relating to a similar proposal. As set out in my Decision I have found that the proposed development would have a harmful effect upon the character and appearance of the appeal property and the surrounding area. I therefore consider that the Council acted reasonably and consistently in refusing planning permission for this reason.
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4. Subsequent to the determination of the application to which the appeal relates, the Council granted planning permission (Ref 17/01130/FUL) for a revised scheme which proposed a smaller roof terrace at a lower level inset within the closet wing roof and smaller dormers within the rear mansard. There are clear differences between the appeal proposal and the approved scheme and, based upon the evidence before me, the Council assessed both schemes on their own merits, having regard to the development plan, national policy and any other material considerations, and acted in a reasonable and consistent manner in granting planning permission for the revised proposal.
5. I note from the submitted application form that the applicant did not seek pre-application advice from the Council prior to submission of the planning application. Notwithstanding the late notification of neighbours, as borne out by the material differences between the appeal proposal and the scheme subsequently approved under application Ref 17/01130/FUL, significant amendments would have been necessary to render the appeal proposal acceptable. Therefore, the Council did not act unreasonably in making a determination on the basis of the original submission. Whilst the Council did not give the applicant advance warning of the officer recommendation to refuse planning permission, it is not clear from the evidence before me how doing so would have resulted in either the appeal being avoided altogether or the issues to be considered being narrowed.

Conclusion

6. 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