
Costs Decision

Site visit made on 20 June 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 19th July 2017

Costs application in relation to Appeal Ref: APP/Z4310/D/17/3175837 61 Garmoyle Road, Liverpool, L15 3JH

- 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 Simon Lawrence for a full award of costs against Liverpool City Council.
 - The appeal was against the refusal to grant approval to erect a single storey extension at rear:
 - the extension will extend 4.32m beyond the original house;
 - the maximum height of the extension will be 3.538m;
 - the height of the extension to the eaves will be 2.455m.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance ("PPG") advises that costs may 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. The appellant submits that the Council has behaved unreasonably in that it has misapplied the provisions of Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
4. Until 30th May 2019, the GPDO enables larger single storey rear extensions to be constructed provided certain criteria are met, and subject to a prior approval procedure being followed. This includes the notification of adjoining owners or occupiers about the proposed development.
5. Paragraph A.4 (7) of the GPDO states that:

*"Where any **owner or occupier of any adjoining premises** objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises."* (my emphasis)
6. In this case however, whilst objections were received these were not from adjoining owners or occupiers. Accordingly, the Council should not have considered the impact of the proposed development on the amenity of

adjoining properties. In doing so, it misapplied the relevant provisions of the GPDO, as set out in my Decision.

7. PPG lists examples of the behaviour that may give rise to a substantive award of costs against a local planning authority. 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*". For the reasons set out above, the Council acted unreasonably and it has delayed development which should clearly have been permitted. In these circumstances, extra costs were incurred, and an award of costs in these specific respects is justified.

Conclusion

8. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Liverpool City Council shall pay to Mr Simon Lawrence, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. Mr Simon Lawrence is now invited to submit to Liverpool City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Hatfield

INSPECTOR