
Costs Decision

Site visit made on 25 April 2017

by Clive Sproule BSc MSc MRTPI MEnvSci CEnv

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

Decision date: 24.07.2017

Costs application in relation to Appeal Ref: APP/R5510/W/16/3164948 14 Moorfield Road, Uxbridge UB8 3SL

- 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 Amrik 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 rear extension and ground floor rear extension.
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Decision

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

Reasons

2. Planning Practice Guidance ('PPG') confirms that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.¹
3. The local planning authority's appeal statement indicates that the Council considered the first floor extension to be a 'step too far in the redevelopment' of no.14. It is apparent from the planning history for the appeal site, and the photograph of the former bungalow, the extent to which the scale of development on the appeal site has increased. While there is no doubt that residential amenity is an important planning consideration,² a finding of harm needs to be explained within the context of the site and its surroundings.
4. It is possible that the decision made in relation to the Appeal B scheme may have been influenced by representations to the Planning Committee. For the reasons given in the appeal decision I have found the Council's case not to be convincing. However, the Council's case in relation to the second reason for refusal includes matters of judgement.
5. On these matters of judgement the Council was entitled to take a view that differed from that of its professional officers, providing that adequate explanation was given to demonstrate that the Council had been reasonable in doing so. Sufficient details have been provided to explain and justify the

¹ PPG Reference ID: 16-028-20140306

² A consideration that may also be referred to as local 'living conditions'

judgements reached on matters that led to the second reason for refusal. Therefore, it is not evident that, in this regard, unreasonable behaviour occurred.

6. However, in relation to the first reason for refusal, this is an existing dwelling that would be extended. The Council's case refers to the threat of flooding within the context of the floor level of the existing dwelling, and new guidance from the Environment Agency on predicting flood levels and taking climate change into account. Paragraph 2.20 of the Council's Statement of Case includes a quote, but does not identify where it is taken from. The quote makes reference to PPG.
7. The proposed (ground floor) extension would be a form of minor development. In relation to *The flood risk issues raised by minor developments* and whether minor developments are likely to raise flood risk issues, PPG is clear that:

"...Minor developments are unlikely to raise significant flood risk issues unless:

- they would have an adverse effect on a watercourse, floodplain or its flood defences;*
- they would impede access to flood defence and management facilities, or;*
- where the cumulative impact of such developments would have a significant effect on local flood storage capacity or flood flows....".³*

8. Paragraph 2.22 of the Council's Statement of Case confirms its view that the overdevelopment of the appeal site has caused a cumulative impact on flood risk. However, this view has not been adequately explained or supported by evidence that sets out why the proposed additional floorspace should be considered to raise significant flood risk issues due to it resulting in a significant effect on local flood storage or flood flows.
9. As a consequence, the evidence fails to substantiate the first reason for refusal and PPG confirms this to be an example of unreasonable behaviour that may lead to a substantive award against the Council. This unreasonable behaviour has caused the appellant to unnecessarily incur the costs of addressing the first reason for refusal and an award of costs is justified in this regard.

Costs Order

10. 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 the Council of the London Borough of Hillingdon shall pay to Mr Amrik Singh, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the first reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.

³ PPG Reference ID: 7-047-20150415

11. The applicant is now invited to submit to the Council of the London Borough of Hillingdon, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Clive Sproule

INSPECTOR