
Costs Decision

Site visit made on 14 June 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 8 August 2017

Costs application in relation to Appeal Ref: APP/C1950/D/17/3172892 95 Hatfield Road, Little Heath, Potters Bar, Herts EN16 1HZ

- 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 and Mrs S Flowerdew for a full award of costs against Welwyn Hatfield Borough Council.
 - The appeal was against the refusal of an application for a proposed two storey side extension; loft conversion to include loft extension; front porch and extension to frontage garage store. The construction of dormer windows.
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Decision

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

Reasons

2. Planning Practice Guidance 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 expense in the appeal process.
3. It also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded.
4. The crux of the applicant's case in this respect stems from their view that the Council had failed to refer, and thus give weight to, a decision at appeal to grant planning permission for the erection of a first floor side and ground floor extension at Number 111 Hatfield Road¹.
5. Whilst the applicant draws parallels between this and the appeal before me, there is no compelling evidence to back up the supposition that had the Council referenced it, planning permission would have been forthcoming for the appeal proposals. In effect, it is solely the applicant's opinion that this would have been the case.

¹ APP/C1950/D/14/2222436

6. I accept that the schemes are very similar but weight is always a matter for the decision maker, as indeed is the relevance of other examples. The decision of a Planning Inspector can be a material consideration but even in that case a Council can, and did in this case, determine to refuse planning permission on the merits of the scheme before them.
7. The Council refer to other examples in the area and importantly justify their reasons for refusing planning permission for the appeal scheme, based on its merits and with due regard to the relevant policies of the development plan. In essence, the Council were clear and detailed in their findings on the merits of a scheme before them concerning matters of subjective planning judgement. My own findings on the appeal scheme aside.
8. It is for this reason that I do not consider the Council's conduct has amounted to unreasonable behaviour. Unnecessary expense during the appeal process has not been demonstrated and as such an award of costs is not justified.

John Morrison

INSPECTOR