
Costs Decision

Site visit made on 25 July 2017

by M Seaton DipTP MRTPI

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

Decision date: 17 August 2017

Costs application in relation to Appeal Ref: APP/N5090/D/17/3173307 4 Walfield Avenue, London, N20 9PR

- The application is made under the Town and Country Planning Act 1990, sections 78(1)(c), 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Anish Yadav for a full award of costs against the Council of the London Borough of Barnet.
 - The appeal was against the refusal of an application for prior approval for a single-storey rear extension with a proposed maximum depth of 4 metres measured from the original rear wall, eaves height of 3 metres and maximum height of 3 metres.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. Whilst the Guidance sets out a series of examples of behaviour whereby either a procedural or substantive award of costs may be justified, neither list is stated to be exhaustive. The application for costs is timely.
3. The applicant contends that the Council has acted unreasonably by virtue of their determination of the application for prior approval, and the conclusions reached with regards to the cumulative length of the extensions from the rear wall of the dwellinghouse.
4. In considering this matter in the main appeal decision, despite the Council's opinion of the proposed extension and detached garage as forming a single entity and part of the enlarged part of the dwellinghouse, I have concluded against The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) and in the context of the Department for Communities and Local Government (DCLG) Permitted Development Rights for Householders Technical Guidance, that this cannot be the case. I am satisfied on the basis of the submissions, and in the context of the other limitations and conditions set out within Schedule 2, Part 1, Class A of the GPDO, that without reaching this conclusion the Council would have concluded that prior approval was not required. Therefore, it would not have been necessary for the applicant to have submitted to an appeal, and incurred the associated expense.
5. On the basis of the above conclusions, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated.

Costs Order

6. 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 Barnet shall pay to Mr Anish Yadav the full costs of the appeal proceedings.
7. The applicant is now invited to submit to the Council of the London Borough of Barnet, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

M Seaton

INSPECTOR