

Costs Decision

Site visit made on 7 June 2017

by **D Guiver LLB(Hons) Solicitor**

Decision date: 3 October 2017

Costs application in relation to Appeal Ref: APP/A5840/D/17/3170915 8 Oakley Place, London SE1 5AD

- 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 Tom Doran for a full award of costs against the Council of the London Borough of Southwark.
 - The appeal was against the refusal of planning permission for construction of a single storey side extension with a pitched roof at the rear of the property and a loft conversion to the rear of the property to make the property more suitable as a single family home.
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Decision

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

Reasons

2. The appellant submits that the Council has acted unreasonably in that it refused planning permission without good reason. Refusal was on the grounds that the roof extension element of the proposed development would fail to preserve or enhance the character or appearance of the Cobourg Road Conservation Area (the Conservation Area).
 3. An earlier application which proposed an identical roof extension was refused for a different reason but the Council concluded that the development would preserve the character and appearance of the Conservation Area. The Council's failure to identify the impact on the Conservation Area as a reason for refusal in the first application, or alternatively reaching the opposite conclusion on the same facts in the second application, constitutes unreasonable behaviour.
 4. The 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.
 5. The PPG makes it clear that a local planning authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal by not determining similar cases in a consistent manner. Having concluded that the initial application was acceptable in terms of the effect on the character or appearance of the Conservation Area the appellant had a legitimate expectation that an identical scheme would also be acceptable.
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6. The Council's inconsistency in reaching opposing decisions on the same facts has caused the appellant to incur the unnecessary costs of lodging and pursuing an appeal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 Southwark shall pay to Mr Tom Doran, 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.
9. The applicant is now invited to submit to the Council of the London Borough of Southwark, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

D Guiver

INSPECTOR