



Costs Decision

Site visit made on 5 September 2017

by **Beverley Doward BSc BTP MRTPI**

Decision date:

Costs application in relation to Appeal Ref: APP/A5840/D/17/3179444 84 Grove Park, London, SE5 8LE

- 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 Dr Emilyn Claid 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 the removal of existing roof covering (front and rear) and roof structure (front part and rear). Increased height of existing side and rear wall facade and new shallow pitch roof to rear to form new increased loft room space including shower room/WC and main studio space. New front facing dormer window mirroring neighbours existing dormer in location and scale. Windows to studio and WC/shower room to rear with roof light above staircase on rear face of roof. Existing small chimney removed and capped-off. New internal stair from first floor level to accommodate proposals.
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Decision

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

Reasons

2. Parties in planning appeals and other planning proceedings normally meet their own expenses. The Planning Practice Guidance (PPG) indicates that costs may be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG also indicates that costs can only be awarded in relation to unnecessary or wasted costs at the appeal, although behaviour and actions at the time of the planning application may have a bearing on a costs application.
3. Although the applicant did seek to contact the Council for advice before submitting the planning application it would appear that she did not submit a formal request for pre-application advice accompanied by the relevant fee. It may have been helpful if the Council had responded to the appellant to inform her of the need to submit a formal request and fee rather than relying instead on this information being provided on its website. However, the procedures adopted by a planning authority for determining planning applications are generally a matter for the authority itself within the context of local government accountability.
4. The applicant contends that the Council provided conflicting advice during the planning application process and that it offered feedback on the proposal only shortly before the decision due date which was only extended when a local community group requested a time extension to consider the proposal. It is

not unreasonable for the Council to have agreed to an extension of time to facilitate consultation or for its views on the proposal to have evolved as matters such as the lawfulness of the extensions to the adjoining property were clarified during the planning application process. Furthermore, I am not persuaded from the evidence that the Council intentionally delayed the provision of the Decision Notice to the applicant. Accordingly, I find no unreasonable behaviour in these respects.

5. The applicant was represented by a professional agent who would have been able to explain any planning or design terminology used by the Council in expressing its concerns with the proposal. Furthermore, the Council is required to determine the planning application in accordance with the development plan and having regard to other material considerations. Accordingly, I am not persuaded that by referring to national and local planning policy the Council communicated in an overly 'jargonistic' way such as to constitute unreasonable behaviour.
6. Assessing the effect of a proposal on the character and appearance of an area is largely a subjective assessment which often comes down to a finely balanced planning judgement. For the reasons set out in my decision, I agree with the Council in this instance. The Council Officer's delegated report sets out the planning issues and considers the proposal against the relevant development plan policies and the Technical Update to the Residential Design Standards (2011) Supplementary Planning Document. It also refers to the National Planning Policy Framework which is a material consideration in determining planning applications. From the evidence, I am satisfied that the Council has not prevented development which should clearly have been permitted. Therefore, I am not persuaded that it has behaved unreasonably such that the applicant has incurred unnecessary or wasted expense in the appeal process.

Conclusion

7. The PPG indicates that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs.
8. For the reasons given above therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for an award of costs is refused.

Beverley Doward

INSPECTOR