The Planning Inspectorate

# Costs Decision

Site visit made on 26 September 2017

**by David Troy BSc (Hons) MA MRTPI**

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

**Decision date: 18 October 2017**

**Costs application in relation to Appeal Ref: APP/F5540/D/17/3181306**
**2a Myrtle Road, Hounslow TW3 1QD**

- 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 G Khan for a full award of costs against the Council of the London Borough of Hounslow.
- The appeal was against the refusal of planning permission for erection of a single-storey rear extension.

## Decision

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

## Reasons

2. 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. The application for costs seeks a full award based on the unnecessary expense and the professional fees incurred by the appellant in pursuing this appeal[1].

3. The appellant states that the Council was unreasonable and the refusal was unnecessary as the Council's assessment of the application failed to take into account a Certificate of Lawfulness that had been issued for the erection of a single storey rear extension on the appeal site in November 2016[2]. The appellant states that this proposed extension would be identical to the single storey rear extension issued with a Certificate of Lawfulness and as such is a material consideration in the assessment of this case.

4. Paragraph 49 of PPG sets out a non-exhaustive list of examples of unreasonable behaviour in substantive terms which may put a Council at risk of an award of costs. Relevant to the case of this application, it states that preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

5. Whilst subject to a separate Decision, I found that the Certificate of Lawfulness issued by the Council was a material consideration to which I attached significant weight. It is clear from the content of the officer's report that the

[1] Planning Practice Guidance: Paragraph: 032 Reference ID: 16-032-20140306
[2] 00782/2A/LAW1

Council failed to address this matter when an assessment of the application was made. As such, I can make no other conclusion than that the appeal would not have been needed and the development should not have been prevented or delayed having regard development plan, national policy and other material considerations in this case.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has been demonstrated and that a full award of costs is justified.

**Costs Order**

7. 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 Hounslow shall pay to Mr G Khan 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.

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

*David Troy*

INSPECTOR