
Costs Decision

Site visit made on 24 October 2017

by Rachel Walmsley BSc MSc MA MRTPI

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

Decision date: 16TH November 2017

Costs application in relation to Appeal Ref: APP/N5660/D/17/3179739 150 Clapham Manor Street, London SW4 6BX

- 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 Bernard Construction UK LLP for a partial award of costs against the Council of the London Borough of Lambeth.
 - The appeal was against the extension to No 150 Clapham Manor Street to the rear (at first floor level) and at third floor level via the creation of a new mansard roof.
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Decision

1. The application for a partial award of costs is refused.

Procedural matter

2. It is not clear from the costs application before me if a full or partial award has been applied for. However, on consideration of the application and the concerns raised pertaining to substantive matters, I have considered the application for costs as one for a partial award.

Reasons

3. I have considered this application for costs in light of the Planning Practice Guidance (PPG). 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 or wasted expense in the appeal process.
4. The Council refused the planning application on four grounds; the applicant seeks costs on the basis of unreasonable behaviour in relation to reasons for refusal No 3 and No 4.
5. With regards to No 3, there is disagreement between parties on the presence of a lightwell at the time the Council made its decision on the planning application and therefore the appellant considers the third reason for refusal to be unreasonable.
6. At the time the Council made its decision on the planning application, the evidence before the Planning Officer was unclear as to whether the lightwell existed or not. The existing plan does not show a lightwell but the proposed drawing does and is annotated as such. The omission of the lightwell from the existing drawings because it was not part of the application proposal is not a

justifiable reason for its omission. Existing plans should show all features on site.

7. The appellant argues that the lightwell was included on the proposed plans as an 'existing' feature but there is nothing to indicate this being the case. I recognise that the works in blue on the proposed drawing are said to represent all works proposed and therefore by implication, the lightwell is existing. However, the works in blue are not inclusive of all development proposed; there are works listed in paragraph 4.5 of the Planning and Design Statement which are not shown on the proposed drawing. In all, it would not have been obvious to the Planning Officer that the lightwell was not for consideration. The onus is on the applicant to provide accurate information to assist the Planning Officer in their decision making process. Given the discrepancies in the material, the Planning Officer did not behave unreasonably in reaching the conclusions they did on the lightwell.
8. It is not clear within the evidence before me if the lightwell was in place at the time the Planning Officer visited the site. Notwithstanding this, a lightwell in place on site would be no guarantee of the Council finding a lightwell acceptable; something which exists on site is not a prerequisite for it being acceptable in the context of the development proposed. Therefore, whilst an agreement between Parties on this matter would have reduced misunderstanding, it would not have necessarily led the Planning Officer to a different conclusion.
9. The Council raised concerns in its fourth reason for refusal relating to the internal reconfiguration of the property and proposals to make the basement habitable. The appellant draws my attention to the dual aspect rooms at upper floor level, compliance with the National Space Standards and the provision of amenity space but this does not explain why the Council's concerns with regards to outlook at basement and ground floor are unreasonable. I recognise that the works proposed would retain No 150 Clapham Manor Street as a single dwelling but the development proposed would re-configure the property and it is on this basis that the Council refused the proposal as identified in its fourth reason for refusal.
10. In light of my findings I do not find that the actions of the Council constitute unreasonable behaviour.

Conclusion

11. I have found that the actions of the Council do not constitute unreasonable behaviour and therefore did not result in unnecessary or wasted expense in the appeal process. I conclude that a partial award of costs, towards the expense of the appeal, is not justified.

R Walmsley

Inspector