



Costs Decision

Site visit made on 22 November 2017

by M Seaton DipTP MRTPI

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

Decision date: 13 December 2017

Costs application in relation to Appeal Ref: APP/N5090/D/17/3180943 25 Prayle Grove, Cricklewood, London, NW2 1BA

- 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 Mrs Mona Sadat Larijani 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 a part single, part two storey, side and rear extensions following demolition of existing garage, and a front porch.
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Decision

1. The application for an award of costs is allowed in part 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 as a consequence of its inconsistency in refusing the application without adequate justification or reasoning. In particular, the applicant highlights that despite considering the two-storey rear extension to comply with the adopted *Barnet Local Plan Supplementary Planning Document: Residential Design Guidance 2016 (the SPD)*, the Council introduced a further argument requiring the extension to be no more than half the width of the dwelling, which was not based upon the SPD or another planning policy basis. It is also indicated that the officer report and second reason for refusal did not align in identifying a specific element of the proposals and its impact on neighbouring occupiers.
 4. In determining the planning application, the Council referred in detail to the sections of the Development Plan and SPD within the officer's Delegated Report, which were considered pertinent to the proposed development. As part of the assessment, the Council identified that the SPD requires extensions to normally be subordinate to the original house and not overly dominant, and respect the proportions of the existing house.
 5. I acknowledge that the Council has referred to the dimensions of the rear two-storey extension and that it would be more than half the width of the house. However, I am satisfied that this assessment is clearly made in the context of
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- establishing whether the size and massing of the proposed extensions would be subordinate to the original dwelling, and not as a consequence of a defined restriction or standard to which the Council was seeking to adhere. I also note that there is no explicit reference within the Delegated Report to the proposed rear extension being fully compliant with the Council's policies and the SPD as is contended, with the harm substantiated within the assessment and the conflict with the SPD clearly set out within the first reason for refusal. I do not therefore consider that the Council has acted unreasonably in this respect.
6. Turning to the second reason for refusal, as I acknowledged within the appeal decision, I accept that the specific wording of the Reason for Refusal was somewhat misleading, and therefore that there was an inconsistency between the reason for refusal and the Delegated Report. However, from the applicant's appeal submissions, it is clear that it was understood that the Council's concerns related to the impact on No. 27 Prayle Grove, as reflected by the applicant in completing the Grounds of Appeal.
 7. However, the Council's evidence in this respect is confusing and contradictory. The assessment within the Delegated Report both concludes that the first floor rear extension would be sufficiently set away to mitigate any detrimental impact the extension would have on neighbouring properties, and also would have an overbearing appearance when viewed from the windows and garden of the adjoining property at no. 27, being detrimental to the visual and residential amenities of this neighbouring occupier. Furthermore, this element of the works has not been explicitly addressed or acknowledged by the Council in the context of the design guidance set out within the SPD, and in particular against paragraph 14.23 of the SPD, which in accordance with the reasoning in my decision on the planning appeal, I would conclude to be unreasonable by its omission.
 8. On the basis of the above conclusions, I have not found there to be unreasonable behaviour resulting in unnecessary or wasted expense in respect of the Council's evidence and substantiation of the first reason for refusal. However, the Council's evidence in respect of the impact of the proposed development on living conditions was unreasonable due to its confused and contradictory nature, and the omission of a specific assessment against the SPD. On the basis of my conclusions on this aspect of the planning appeal, I am satisfied that this has led the applicant to undertake unnecessary expenditure in pursuit of this matter, and that unreasonable behaviour leading to unnecessary expenditure as described in the Planning Practice Guidance, has been demonstrated.

Costs Order

9. 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 Mrs Mona Sadat Larijani the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to the second reason for refusal as set out in the Council's Notice of Decision.
10. 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