

Costs Decision

Site visit made on 5 December 2017

by John D Allan BA(Hons) BTP MRTPI

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

Decision date: 14 December 2017

Costs application in relation to Appeal Ref: APP/M5450/D/17/3181851 Land at 1 Daventer Drive, Stanmore, HA7 3TJ

- 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 Chavda for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was made against the refusal of planning permission for the erection of a two-storey side extension.
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Decision

1. The application for an award of costs is allowed 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.
3. The applicant has argued that the appeal was unnecessary given that the proposal was almost identical to a proposal that was granted planning permission in May 2012 (Ref: P/0475/12) and that, in the absence of any significant change in circumstances, it was unreasonable of the Council to have refused planning permission.
4. The Council did not respond to the costs application. In the officer's report for the planning application the Council point out that the previous planning permission had not been implemented and had lapsed, and that since that time the Council had adopted the Harrow Development Management Policies in 2013 and that The London Plan had been revised in 2016.
5. I have been provided with a copy of the 2012 permission and the plans that were approved at that time. I have also been provided with a copy of officer's report which informed the decision to approve the planning application. There is little difference of any significance between the side extension that was proposed in 2012 and the current appeal proposal. In 2012 it was proposed to build above the existing side garage. The current appeal proposal is for the garage to be demolished and a two-storey extension to be built in its place

- but with an integral garage. The resulting appearance of both would have been very similar.
6. I recognise that the policy framework for the Council has changed since the last planning permission. However, I cannot square that with the polar-opposite assessments that were made by the Council in relation to the two similar proposals.
 7. In 2012 the Council concluded that *".....the proposed first floor side extension would not disrupt the pattern of development in the surrounding streetscene. In addition, the proposed first floor side extension would not be visually prominent due to its set back from the main front wall of the dwellinghouse"*.
 8. In relation to the current appeal proposal the Council concluded *"[the proposed extension] would alter the pattern of development along the road, making the end house at this prominent site wider than the other. As such, the subject end house would appear dominant [sic] and discordant with the design and pattern of development in the street scene and the surrounding area. The proposal is considered to be detrimental to the character and the established pattern of development in the wider street scene"*.
 9. There is nothing within the officer's report to suggest that circumstances in the locality have changed over the past five years and nothing that I saw during my appeal site visit would lead me to conclude otherwise. My findings in relation to the appeal proposal closely reflect the Council's findings in 2012. Whilst I accept that planning decisions often involve elements of subjective judgement, the officer's report for the appeal proposal offers no reasoned justification why it is now considered that the proposal would *"result in a development that would not respect the existing pattern of development, grain, scale and mass of the surrounding area"*.
 10. In addition, there is no explanation why the appeal proposal is considered to now be *"detrimental to the visual amenities of the neighbouring occupiers at no. 77 The Highway"* when it was previously considered *"not to be overbearing or visually intrusive to the occupiers of No. 77 and 75 The Highway"*.
 11. It is a moot point that the Council's policy tests have become more stringent. Firstly, the 2012 decision was taken having regard to the Council's *Design and Layout Guidance for Householder Development*, which is part of the Harrow Residential Design Guide SPD, adopted in 2010, and that document remains relevant. Secondly, the decision in 2012 was made against the recent publication at that time of the National Planning Policy Framework in March 2012, which has quality of design as one of its core principles. The 2012 scheme was found acceptable in relation to both. However, even if it is taken that the new policy has raised the bar in relation to design quality, it does not explain why an almost identical development can shift from having no detrimental visual impact to somehow becoming visually harmful. A change of heart could only reasonably be explained if, in the first instance, the development had been found acceptable based only on a finely balanced decision but that somehow now the policy test had tilted the balance in the opposite direction for reasons that were clearly demonstrable. That situation

is not argued by the Council or supported with any substantive evidence within the officer's report. Neither does it reflect my own assessment.

12. In the circumstances that I have outlined, I find that the Council has failed to substantiate the reason for the refusal of planning permission having regard to the history of the site. 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

13. 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 Harrow shall pay to Mr C Chavda, the costs of the appeal proceedings; such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
14. The applicant is now invited to submit to the Council of the London Borough of Harrow, 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.

John D Allan

INSPECTOR