



Costs Decision

Site visit made on 31 January 2018

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 12th March 2018

Costs application in relation to Appeal Ref: APP/T5720/W/17/3180823 150 - 152 Haydons Road, South Wimbledon, London, SW19 1AE

- 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 S Yousif for a full award of costs against the Council of the London Borough of Merton.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for alteration to top floor to form a two bedroom flat with external alteration including rear roof terrace and revision to basement level -2 to form storage ancillary to the building.
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Decision

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

Reasons

2. 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 appellant submits that the Council has acted unreasonably in that better communication with the applicant would have enabled the appeal to be avoided altogether. In this respect, the appellant states that measuring the building could have quickly resolved the dispute regarding its height. Moreover, the appellant asserts that the height of the building and previous remedial works undertaken should have been properly documented by the Council.
4. As set out in my Decision, the application before me does not seek either to increase the height of the approved building, or to retain it as it currently stands. Whether or not the building is now at the height that was permitted in 2011 is therefore not a relevant consideration in determining this appeal. However, the Council has indicated that, had it been in a position to do so, it would have refused the application on the basis that the increased height of the building is visually intrusive and detrimental to the Haydon's Road/South Park Road street scene. It therefore sought to resist the development on grounds that were unrelated to the application. In addition, the Council stated that the revisions to the fenestration are considered to be visually intrusive, but provided no evidence or objective analysis to substantiate this point in its submissions.

Conclusion

5. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

6. 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 Merton shall pay to Mr S Yousif 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.
7. Mr S Yousif is now invited to submit to the Council of the London Borough of Merton, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Hatfield

INSPECTOR