
Costs Decision

Site visit made on 23 January 2018

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 27th April 2018

Costs application in relation to Appeal Ref: APP/A5840/W/17/3181775 338 Ivydale Road, London SE15 3DG

- 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 & Mrs Saunders for a full award of costs against the Council of the London Borough of Southwark.
 - The appeal was against the refusal of planning permission for the construction of a L-shaped roof extension; raising of the ridge level by 390mm and the installation of two rooflights to front roofslope.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The National Planning Practice Guidance (PPG) advises that, 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.
3. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The Appellant submits that the Council acted unreasonably as the proposed development was acceptable, they have not demonstrated significant adverse impacts or actual tangible harm and have not taken into account the design paragraphs of the National Planning Policy Framework. Furthermore, subjective opinion has been utilised and consideration should have been given to two recent appeal decisions¹ on the same street.
5. The Council have responded that the proposal would be contrary to Residential Design Standards and the adopted Development Plan policies as they consider the development would have a harmful effect on the townscape. Commentary on both recent appeal decisions is also made.

¹ APP/A5840/D/16/3158902 (77 Ivydale Road) and APP/A5840/D/15/3136834 (291 Ivydale Road)

6. In reaching my decision, it was clear that the merits of the proposal rested on a subjective opinion on whether or not the proposed development would harm the character and appearance of the area as a result of the increased height of the roof.
7. The Council, in their Officers report, have clearly had regard to the appeal decisions on Ivydale Road, and the effect of the development on the character and appearance of the area. To my mind, the Council have identified what they considered to be a material planning harm.
8. Whilst I have found in favour of the Applicant in my decision, I am satisfied that the Council have provided sufficient evidence to justify their decision.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Chris Forrett

INSPECTOR