



Costs Decision

Site visit made on 23 May 2019

by A Thompson BSc BTP MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 08 July 2019

Costs application in relation to Appeal Ref: APP/LS5810/D/19/3222772 49B Hampton Road, Teddington, TW11 0LA

- 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 Donal Lucey for a full award of costs against the Council of the London Borough of Richmond upon Thames.
 - The appeal was against the refusal of planning permission for addition of a new storey to the existing bungalow.
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Decision

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

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 appellant's application for costs is principally on the basis that Council's pre-application advice failed to identify concerns about the potential impact on the living conditions of occupiers of the next door property, no.49A Hampton Road.
4. The appellant states that if the Council had identified these concerns at pre-application stage they would have been addressed, and the appellant could have made a better informed decision about the prospects of the proposal succeeding. It is also noted that it is probable that such concerns may have dissuaded the appellant from continuing to incur further costs of the professional services provided, including at the appeal stage.
5. The appellant's pre-application submission was detailed and, amongst other things, illustrated the likely relationship between the proposed development and no.49A Hampton Road.
6. The Council's written pre-application advice (the advice)¹, following consideration of that evidence, stated that "the amenity harm which results from the scheme on the neighbouring property [no.49A] would likely to be considered acceptable".

¹ London Borough of Richmond Council Letter dated 3 December 2018

7. But the advice, including the officer's judgement about the degree of harm in relation to no.49A, was subject to an assessment of on-site conditions, as no site visit had been undertaken.
8. In addition, the advice flagged that in the event that an application was made, it would be subject to public consultation and, in line with Planning Practice Guidance, that the advice given at the pre-application stage could not pre-empt the democratic decision making process or a particular outcome.
9. I agree that the appellant supplied detailed information about the scheme and relationship with no.49A, including identifying the windows in no.49A that were likely to be most affected. But that could not then preclude any further consideration of the impact of the proposals on no.49A, once the application was formally submitted.
10. In this case, following consideration of the information submitted by the occupiers of no.49A and with the benefit of a site visit, the officers dealing with case reached a different view about the impact the proposals would have on the living conditions for occupants of no.49A.
11. Given that the Council had clearly set out the status of their pre-application advice and noted that public consultation and an on-site assessment would be undertaken, once the application was formally submitted, I do not consider that the pre-application advice was so misleading as to amount to unreasonable behaviour on the part of the Council.
12. I appreciate that the appellant is disappointed that the Council did not identify their concerns about the impact on no.49A at the pre-application phase, however, I do not consider that the turn of events in this case entirely negates the value of desk-based assessments.
13. It is likely that in many cases, such assessments are entirely consistent with the final decision made by the Council and have the benefit of being less costly to undertake and faster to be completed, than a pre-application process that required a site visit in each case.
14. Furthermore, as Planning Practice Guidance² makes clear there may be other steps the appellant may wish to take if the level of service received at the pre-application stage is considered by the appellant to have fallen below expectations.
15. The appellant has also expressed concern that the application was allocated to a new case officer, but as the officer who provided pre-application advice had left the Council in the intervening period, that was unavoidable.
16. I am not clear what unnecessary or wasted expense it is argued has been incurred in the appeal process. It is not clear whether the project would have been abandoned completely or amended so as to seek to achieve permission, had the Council identified the concern about the impact on no.49A at the pre-application stage. However, as I do not consider that the Council has acted unreasonably in this case, I do not need to conclude on this element of the claim.

² Planning Practice Guidance – Before submitting an application : Paragraph: 012 Reference ID: 20-012-20140306

17. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Anthony Thompson

INSPECTOR