



Costs Decision

Site visit made on 27 March 2019

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2019

Costs application in relation to Appeal Ref: APP/N1920/D/19/3222164 15 Newberries Avenue, Radlett WD7 7EJ

- 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 John Andrew Thomas Patten for a full award of costs against Hertsmere Borough Council.
 - The appeal was against the refusal of planning permission for single storey side & rear and first floor side extensions and new front porch
-

Decision

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

Reasons

2. Paragraph 030 of the National Planning Practice Guidance (NPPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraphs 046 to 049 of the NPPG set out the circumstances when the behaviour of a local planning authority might lead to an award of costs. These can either be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. Examples of unreasonable behaviour by a local planning authority includes preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other material considerations. Other examples include lack of co-operation with the other party or parties, only supplying relevant information at appeal and or deliberately concealing relevant evidence at application stage or at subsequent appeal.
4. The appellant has applied for costs on the basis that the Local Planning Authority (LPA) did not enter into dialogue regarding the acceptability of the appeal proposal and was inconsistent in its approach in granting planning permissions for similar development elsewhere, thereby leading to an unnecessary appeal.
5. An award of costs may be made where there were no substantive reasons to justify delaying the determination and better communication with the applicant would have avoided the appeal altogether. The LPA has stated that the Appellant did not seek pre-application advice; whilst there are significant benefits to early engagement over schemes, an applicant's decision not to take

up pre-application advice does not discharge the LPA's duty to engage with the applicant during the application process. However, I have been provided with copies of correspondence between the parties which clearly demonstrates discussion was had in respect of the proposal. Whilst I have allowed the appeal, the LPA's decision was supported by substantive reasons on the basis of the planning history of the site and their interpretation of guidance. These substantive reasons had been discussed with the appellant; the LPA had therefore not acted unreasonably in this regard.

6. An award of costs may also be made where the LPA has not determined similar cases in a consistent manner. The appellant has provided examples of planning permissions granted by the LPA for similar schemes. The LPA's reason for refusal relates to the effect of the proposal on the character and appearance of the host dwelling and surrounding area; the other decisions referred to do not affect this immediate context nor the merits of the proposal. It is apparent that the LPA has allowed large rear extensions to the dwellings immediately surrounding the appeal site and this is part of the reason the appeal has been allowed. However, the LPA had regard to the appellant's examples as well as the planning history of the appeal site in forming its decision, even if it reached different conclusions on the built context and effect of the proposal on established character to both myself and the appellant. However, the effect of the proposal on character and appearance is a matter of judgement and whilst I have made a different judgement, I am satisfied that the LPA has not been unreasonably inconsistent in its decision making, rather judging each case on its merits.
7. I therefore find that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all matters raised, an award of costs is not justified.

Kim Langford Tejrar

INSPECTOR