
Costs Decision

Site visit made on 11 June 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2019

Costs application in relation to Appeal Ref: APP/T5720/W/19/3224043 206 Lavender Avenue, Mitcham CR4 3HP

- 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 Joe Ball for a partial award of costs against the Council of the London Borough of Merton.
 - The appeal was against the refusal of the Council to grant planning permission for a rear dormer by way of a hip to gable conversion plus 3 no. roof lights on front slope.
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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 application for costs in this case was made on the basis that the council's decision notice was inaccurate for two reasons. Firstly, that it referred to planning permission being refused 'subject to conditions'; and secondly, that it included as reason No 1 text which, while required in the decision notice, was not actually a reason for refusal and which would more usually be presented as an advisory note.
4. Paragraph 047 of Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they provide information which is shown to be "manifestly inaccurate or untrue".
5. The information which the council presented on its decision notice is required by Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015 ('the Order'), which requires local planning authorities to state their full reasons for refusal and, where permission is refused, to explain the extent to which they have been able to work with the applicant to seek solutions to problems relating to the application.
6. All of the required information was present in the decision notice in this case. In spite of this, I have some sympathy with the appellant for the slight initial confusion which may have arisen on reading that permission had been refused 'subject to conditions'. However the appellant's statement then goes on to say that "it is obvious that reason No 1 is an advisory note and not a reason for refusal". Consequently, my assessment is that while the decision notice could

perhaps have been worded or ordered differently, the council has adequately described and substantiated its reasons for refusal as required by the Order, and it could not be described as having supplied manifestly inaccurate information.

Conclusion

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

M Cryan

Inspector