



Costs Decision

Site visit made on 2 July 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 26 July 2019

Costs application in relation to Appeal Ref: APP/N5090/W/19/3225027 18 Cumbrian Gardens, London, NW2 1EF

- 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 Mistry Manharlal for a full award of costs against the Council of the London Borough of Barnet.
 - The appeal was against the refusal of planning permission for a single storey rear extension with a proposed depth of 6 metres from original rear wall, eaves height of 3 metres and maximum height of 3 metres.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the 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 expense in the appeal process. The PPG goes on to advise that unreasonable behaviour in the context of an application for an award of costs may be either procedural, or substantive.
3. Whilst the applicant has not specified, I have assumed that a full award of costs is sought. The applicant's first concern relates to the Council's reason for refusal. In this regard they contend that the Council have acted unreasonably because they refused planning permission based on uncertainty concerning the submitted plans, even though the information on the plans was clear. Even if there was uncertainty, the applicant contends that the case officer could have sought clarification on the proposal and, in any event, the information on the accompanying application form was clear. The applicant states that there is insufficient time to complete the building works now as there was a deadline of 30th May 2019 for building work to be completed for approved large extensions, resulting in wasted expense. Finally, the applicant considers that the Council has not acted in a helpful manner.
4. The PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal, and if they delay a development that should have been granted permission. In this regard, whilst the appeal was accompanied by clarification from the applicant concerning one of the measurements included on the submitted plans, this was not submitted with the original application. Therefore, contrary to the appellant's assertion, due to the anomalous

measurement, the original submitted plans were not clear which understandably resulted in confusion for the Council.

5. As a result of the legislative requirements for prior approval applications of this type, I agree with the Council that this makes any request for amendments or clarification particularly difficult given the time constraints and the associated consultation period. To my mind, therefore, this type of application is heavily reliant on the accuracy of the information and plans accompanying it as there is limited time to seek further information from applicants. In this regard, the onus is on the applicant to ensure that plans and information submitted with the application are accurate and understandable from the outset. Whilst ultimately, I did not agree with the Council's position, it was not unreasonable for the Council to doubt the accuracy of the submission on this basis.
6. In respect of the May 2019 deadline associated with the Notification of a proposed larger Home Extension, even though these rights have now been made permanent, they were not at the time the appeal was lodged. However, given my foregoing reasoning concerning the accuracy of the submitted plans accompanying the original application, the Council's decision to refuse the application was not unreasonable.
7. Although the actions of the Council during the application process can be a factor, any award of costs is primarily in relation to unnecessary or wasted expense resulting from the behaviour of the parties during the appeal process. There is nothing before me in the evidence to suggest that the Council did not co-operate or otherwise acted unreasonably during the appeal process.

Conclusion

8. Taking all of the above into account, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated in this case and that an award of costs is not justified.

Matthew Woodward

INSPECTOR