
Costs Decision

Site visit made on 2 July 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2019

Costs application in relation to Appeal Ref: APP/T5720/D/19/3226020 26 Toynbee Road, Wimbledon Chase, London SW20 8SS

- 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 Mrs Lisa Frame for a full 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 part single-storey part two-storey side and rear extension, rear dormer roof extension and front porch.
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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. Paragraph 049 of Planning Practice Guidance indicates that local planning authorities will be at risk of a substantive costs award being made against them for, among other things, not determining similar cases in a consistent manner.
4. The application for costs in this case was made by the appellant on the basis that the Council had not taken into account a 2015 appeal decision¹ relating to an almost identical nearby property at 41 Toynbee Road.
5. The Council's Delegated Officer Report briefly considered another extension built nearby at 40 Toynbee Road, and concluded that there were significant differences between that development and the proposal in this case. The appeal relating to No 41 was not referred to. In the case of a householder appeal the Council has to rely on its officer's report. However, in responding to this costs application the Council argues that it did not consider the earlier appeal to be particularly relevant for two reasons. Firstly, that the effect of development on neighbours' living conditions is likely to be unique in each case and therefore should be considered afresh. Secondly, that there were significant matters of character and appearance in this case which were not a main issue in the appeal relating to No 41.

¹ APP/T5720/D/15/3005449

6. In determining this appeal I had regard to the 2015 decision. For reasons set out in my main decision, I came to similar conclusions to the previous Inspector on neighbours' living conditions. However, I consider that there are significant differences of scale between the two cases, and when these are taken into account the Council was within its rights not to have made reference to that earlier appeal decision. The Council assessed the proposal on its own merits and against the relevant development plan policies. I do not therefore consider that the Council acted unreasonably in its decision making.
7. In the face of the refusal of planning permission, the appellant had the choice of amending their proposal or pursuing an appeal. I have dismissed the appeal on the grounds of unacceptable harm to the character and appearance of the host dwelling and the Dennis Park Crescent Conservation Area. However, I was am satisfied that it would have caused no significant harm to neighbours' living conditions. Consequently, such expense as the appellant has incurred may be of value should she wish to pursue an alternative scheme in the future.

Conclusion

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

M Cryan

Inspector