
Costs Decision

Site visit made on 22 August 2019

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 28 October 2019

Costs application in relation to Appeal Ref: APP/T5720/X/18/3216178 43 The Drive, Morden SM4 6DH

- 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 Ms Rosanna Toriello for a full award of costs against the Council of the London Borough of Merton.
 - The appeal was against the Council's refusal to grant a certificate of lawful use or development (LDC).
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) 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. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal.
3. The applicant indicates that the Council was obstructive in preventing her carrying out the development applied for. The appeal turned on whether the dwelling was a semi-detached property, as originally built, or whether, due to extensions added to both Nos 41 and 43, the latter could reasonably be considered to have been altered to such an extent as to be now considered a terraced dwelling. The main parties had firmly differing views as to its physical status, and previous cases were highlighted by both sides in attempts to draw parallels.
4. Notwithstanding my decision to allow the appeal I found it to be a balanced case with both sides making relevant points. Ultimately, it was decided on the individual circumstances peculiar to the case rather than any hard and fast principles. In other words fact and degree played their part.
5. In assessing whether an award of costs is justified any unnecessary and wasted expense incurred must relate only to the appeal process. Given the circumstances described I have not been presented with any compelling evidence demonstrating any lack of co-operation or delay, and I am satisfied that the Council was not obstructive and properly exercised its duty to determine the application. Accordingly, the appeal process was followed and adhered to.

6. I find, therefore, that no unreasonable behaviour occurred and no award is made.

Timothy C King

INSPECTOR