



Costs Decision

Site visit made on 2 December 2019

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 16 January 2020

Costs application in relation to Appeal Ref: APP/H5960/X/19/3223514 22 Penwortham Road, London SW16 6RE

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Alex Leschallas for a full award of costs against the Council of the London Borough of Wandsworth.
 - The appeal was against the refusal of a certificate of lawful use or development for a rear roof extension.
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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 appellant contends that the Council has acted unreasonably by determining applications for very similar proposals in an inconsistent manner. The appellant cites nine certificate of lawfulness applications which it states are extremely similar to the appeal proposal, and which were approved after the date of the 31 Milton Road appeal decision¹ (August 2018) which the Council has relied upon in support of its reasoning.
4. The Council has though explained in respect of these other approvals that the Council only became aware of the Milton Road appeal decision following its dealing with an appeal for a similar proposal at 76 Parma Crescent² in December 2018. In January 2019, the Council proceeded to review related appeal decisions in order to inform its approach on these sorts of cases.
5. The Council explains that only three of the nine decisions referenced by the appellant were made after the Council became aware of the 31 Milton Road appeal decision. These were apparently determined at a time when the Council was reviewing its approach to this sort of development. It has confirmed that following its adoption of its new approach, only one of these nine approvals would have been determined differently, and this decision pre-dated the application which is the subject of the present appeal.

¹ APP/N5090/X/17/3189645

² APP/H5960/X/18/3218689

6. Evidently, I have determined the proposed rear roof extension to be permitted development for different reasons than those put forward by the appellant. However, the failure by the Council to adopt the same approach as I have taken does not mean that it has acted unreasonably.
7. The Council properly took account of the approaches of Inspectors in other appeal decisions, treating them as material considerations of significant weight. The Council rightly proceeded to review its approach in the light of these appeal decisions and sought to adopt a consistent approach as soon as possible following that review.
8. Accordingly, and although I found in my appeal decision that the proposed rear roof extension would be permitted development, and the Council's decision to refuse to grant a lawful development certificate was not well-founded, I conclude nonetheless that their behaviour in so doing was not unreasonable. An award of costs to the appellant is not therefore justified and I refuse the application.

V Bond

INSPECTOR