

Costs Decisions

Site visit made on 7 November 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 1st February 2020

Costs application in relation to Appeal Ref: APP/H5960/C/19/3221949 (Application A)

10 Burntwood Grange Road, London SW18 3JX

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr C Patel for a full award of costs against the Council of the London Borough of Wandsworth.
 - The appeal was against an enforcement notice alleging without permission, and within the last four (4) years, the unauthorised erection of a single-storey side/rear extension on the Property.
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Costs application in relation to Appeal Ref: APP/H5960/W/19/3221946 (Application B)

10 Burntwood Grange Road, London SW18 3JX

- 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 C Patel for a full award of costs against the Council of the London Borough of Wandsworth.
 - The appeal was against the refusal of planning permission to demolish existing rear extension and erect new rear and side single storey extension.
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Decisions

1. Application A for an award of costs is refused.
2. Application B for an award of costs is refused.

Reasons

3. 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.
4. The appellant argues that the Council has been unreasonable in refusing planning permission, and in issuing an enforcement notice, as the appeal development is not materially different to an extant planning permission granted by the Council under reference 2017/1355 (the approved scheme).
5. The Council's officer report said that the eaves of the appeal development are 0.8m higher than that approved under the approved scheme. However, it is apparent from a comparison of the plans for the appeal scheme and the approved scheme that the eaves heights are the same. The Council was therefore incorrect.
6. However, it is also clear from the officer report and the appeal papers that the Council's refusal of the appeal scheme and initiation of enforcement action was

not entirely based on its misunderstanding as to the height of the eaves relative to the approved scheme. It found that there were other material differences between the schemes that resulted in harm to character and appearance. They included the design of the roof and fenestration, and the fact that the approved extension would be set back further from the front elevation of the main building causing it to appear more subordinate to it relative to the same relationship in the appeal scheme.

7. Given the Council's views on the appeal development, notwithstanding the matter of the eaves height, it was not unreasonable for it to refuse the application and issue the enforcement notice for the reasons of protecting the character and appearance of the property and the area.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Andrew Walker

INSPECTOR