



Costs Decision

Site visit made on 9 March 2020

by D Hilton-Brown BSc (Hons) CIEEM

an Inspector appointed by the Secretary of State

Decision date: 07 April 2020

Costs application in relation to Appeal Ref: APP/E5330/W/19/3241122 126 Charlton Road, Charlton SE7 7EY

- 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 Bastas for a full award of costs against Royal Borough of Greenwich Council.
 - The appeal was against the refusal of planning permission for the demolition of existing hipped roof at 124 Charlton Road to construct a gabled roof over 124 & 126 Charlton Road with three front rooflights, three rear rooflights, two rear dormer windows to facilitate the formation of a 1-bed flat at 126 Charlton Road and construction of a part 1/ part 2 storey extension with green roof at 126 Charlton Road..
-

Decision

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

Reasons

2. I have considered this application for costs in the light of the Government's Planning Practice Guidance¹ (PPG). This advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In this particular case the applicant considers that the Council acted unreasonably, in determination of the planning application on two counts. This is on the basis that it did not determine the cases in a consistent manner since proposals began back in 2017, and that it failed to substantiate or justify the reasoning behind its reasons for refusal. I will consider each of these issues separately.

The Council has not determined the cases in a consistent manner since the project proposals dating back to 2017.

4. The applicant has submitted a detailed chronology of events dating back to 19 September 2016. This provides details of the correspondence between the applicant and the Council relating to planning applications 16/3061/F, 17/3228/F, 18/1178/F and 19/0390/F. These details relate mainly to the level of service and advice the appellant received from the Council in regard to the determination of these multiple planning applications.

¹ PPG "Appeals", paragraph: 028, Reference ID: 16-028-20140306; Revision date: 06 03 2014.

5. I can understand that the appellant is somewhat aggrieved by the Council's level of customer service over this period of time and indeed I have some sympathy with the applicant's position. However, the power to award costs is limited to those necessarily and reasonably incurred in this appeal process. Therefore, any expense incurred at the planning application stage for this proposal and other previous applications, or any indirect expenses, cannot be recovered by an award of costs. Notwithstanding this, I have limited information relating to these previous planning proposals and can give them little weight in this cost's decision. I have therefore assessed this application for costs on its own merits in relation to this appeal only.

The Council behaved unreasonably in refusing planning permission without good cause and failing to produce any evidence to support its position.

6. The Council's first reason for refusal was that they considered that the development would have a detrimental effect on the character and appearance of the host dwellings and the immediate area. The Council's argument is quite clear, as they considered that the replacement hip-to-gable roof would be out of keeping with the host dwellings and the immediate area. The houses on the south side of Charlton Road between the appeal properties and No 88 are mainly of a similar design and character. Hipped roofs are the predominate feature of this row of houses and the Council judged that a hip-to-gable conversion would be an incongruous feature in this row of houses.
7. It can be seen from my decision in the substantive appeal, that I agreed with the Council on this matter and found that the proposed development would have a detrimental impact on the character and appearance of the host dwellings and the immediate area.
8. The Council also considered that the flat roof of the rear 2-storey extension would be visible from the highway and therefore would not comply with local policy and guidance. While I did not agree fully with the Council on this matter, they were still within their right to make this decision in line with their current adopted policies and guidance.
9. The Council referenced the asymmetric front elevation; however, this could not be taken into consideration, as the development would not propose any major changes to the front elevation. Notwithstanding, I do not consider that the applicant would have incurred any significant costs in this appeal due to this particular issue.
10. The Council's second reason for refusal was based on their concerns that the proposed larger windows and doors in the rear ground floor unit (No 126), would reduce the privacy for the occupiers of this flat. They considered that the shared recreational space would allow overlooking into the habitable rooms of No 126. Again, it was evident that the Council did have justification to substantiate their decision and while I agreed with their reasoning, I considered a condition could have satisfactorily resolved the issue.
11. While I did not concur with the Council on all the matters, I judge that they provided evidence to substantiate and justify their reasons for refusal and used their planning judgement to assess the proposal against the current adopted policies and guidance. Consequently, I do not consider that, in terms of the costs system, the Council have acted unreasonably.

Conclusion

12. I therefore find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. The application is therefore refused.

D Hilton-Brown

INSPECTOR