
Costs Decision

Site visit made on 10 March 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th April 2020.

Costs application in relation to Appeal Ref: APP/Y1945/D/19/3241975 19 Woodland Drive, Watford WD17 3BU

- 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 Azam Razzaq for a full award of costs against Watford Borough Council.
 - The appeal was against the refusal of planning permission for a double storey side extension with crown roof and loft conversion.
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Decision

1. The application for an award of costs is allowed, in the terms set out below.

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 the Planning Practice Guidance sets out the examples of unreasonable behaviour by local planning authorities which includes not determining similar cases in a consistent manner and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant states that the Council failed to substantiate the reason for refusal particularly in respect of a loss of privacy. The appellant also contends that the Officer's report was in places contradictory and that the Council has not acted in a consistent manner by approving a similar development at the neighbouring property.
5. Every application and appeal must be considered on its own merits. Taking into account that planning permission at the neighbouring property was granted some 11 years ago against different planning policies I do not agree with the contention that the Council has acted in an inconsistent manner.
6. I am concerned by the contradiction between the reason for refusal outlined on the decision notice and the alleged harm set out in the Officer's report. In particular the decision notice alleges harm to the privacy of neighbouring occupiers. Furthermore, the Council alleges harm to the living conditions of neighbouring occupiers in respect of loss of daylight. However, this reasoning has not been substantiated with any clear evidence.

7. The Council, therefore, have presented vague, generalised and inaccurate assertions and have failed to clearly and objectively substantiate their position in this respect. This constitutes unreasonable behaviour contrary to the guidance in the National Planning Policy Framework and the PPG.
8. Whilst the appeal would have still been necessary in respect of the effect of the side extension upon the character and appearance of the area, in my view, the appellant has, unnecessarily, expended additional resources in countering the Council's position in respect of living conditions.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in respect of contesting the impact of the development upon the living conditions of neighbouring occupiers and that a partial award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Watford Borough Council shall pay to Mr Azam Razzaq, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the impact of the development upon the living conditions of neighbouring occupiers; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Watford Borough Council, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

B Thandi

INSPECTOR