The Planning Inspectorate

Costs Decision

Site visit made on 1 September 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th September 2020

Costs application in relation to Appeal Ref: APP/Y1945/D/20/3244365
212 Hempstead Road, Watford WD17 4LL

- 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 and Mrs O Heron for a full award of costs against Watford Borough Council.
- The appeal was against the refusal of planning permission for the erection of a part single storey/ part two storey front/ side extension and a single storey rear extension.

Decision

1. The application for an award of costs is partially 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. The applicants contend that the appeal proposal is similar to a previous proposal that was granted planning permission on the site by the Council[1]. Although this permission has since expired, due to it not being implemented, they contend that the main difference between them was that the current proposal also includes a single-storey rear extension. The applicants have highlighted that the Council in its officer report, stated that there is no objection in principle to the enlargement of the dwelling house at the rear.

4. Whilst I note there were similarities in the design between the current and previous proposals, there was also a number of differences, particularly in terms of the overall scale and design elements such as the sky lights and the rear design of the roofs. As such, the Council identified that the overall development with all its parts would be harmful in scale, size and shape. Therefore, although I have allowed the proposal, the Council's approach in terms of harm to the character and appearance was reasonable in this respect.

5. In the current proposal, the Council identified harm in terms of the loss of privacy, even though in the previous scheme the Council accepted that obscure glazing could be secured by condition. The Council in its second reason for refusal, also referred to the harm caused by a sense of enclosure to the occupiers of the neighbouring property. However, this was not identified as being harmful in previous schemes submitted for the site.

[1] 15/01784/FULH

6. Since the refusal of the current proposal, the Council has approved a resubmission of the expired permission on the site[2]. In the officer report it noted that the scheme would be acceptable with obscure glazing and does not suggest the scheme would cause a sense of enclosure.

7. Whilst I note that the applicants have submitted a number of applications, which have not been implemented, there should be a consistent approach to decision making. As a result, it is reasonable to conclude that the appeal in respect of the harm to the living conditions, should not have been necessary, as inconsistent decisions have been made and time and effort has been expended on the case that should not have had to be pursued.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified to cover the expense incurred by the applicants in contesting the second part of the Council's reason for refusal.

Costs Order

9. 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 and Mrs O Heron, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the second reason for refusal in respect of the harm to the living conditions of the occupiers of the neighbouring property, such costs to be assessed in the Senior Courts Costs Office if not agreed.

10. The applicants are now invited to submit to Watford Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

D Peppitt

INSPECTOR

[2] 19/01394/FULH