
Costs Decision

Site visit made on 19 October 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th November 2020.

Costs application in relation to Appeal Ref: APP/T5720/D/20/3255869 19A Russell Road, London SW19 1SP

- 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 Grant Lester of Showcase Media for a full award of costs against the Council of the London Borough of Merton.
 - The appeal was against the refusal of an application for erection of a two-storey extension to form a three-bedroom dwelling house.
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Decision

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

Reasons

2. Planning Policy Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellant's application for costs relies to a substantial extent on the matter of the Council giving positive pre-application advice before the application was submitted, followed by inconsistent advice during the processing of the application and prior to the Council making its decision.
4. Informal advice given before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all relevant factors. In this case, a previous officer working at the Council had alluded to the scheme being acceptable in its context. However, I have not seen a formal written response from the Council in this respect or details of the drawings that were commented on. Whilst, the appellant's submission includes a transcript of the meeting notes from this initial discussion, again I am not clear what scheme this related to. I therefore have no firm basis to conclude that the informal advice given was so misleading as to amount to unreasonable behaviour on the part of the Council.
5. The discussions that took place between the parties during the application stage have been evidenced in emails. I note that the Council provided clear advice on why the revised scheme was considered unacceptable and gave the applicant an opportunity to amend that scheme. Although the Council provided an indication that a smaller scheme may be acceptable, this was dependent on further information being submitted for comment, and following the submission of those further details, the Council considered that the scheme would have

harmful effects. The Council also gave the opportunity for the applicant to withdraw the scheme. On this basis I do not consider that they acted unreasonably during these discussions.

6. Whilst I appreciate that the outcome of the application will have been a disappointment to the appellant, the Local Planning Authority were not unreasonable in coming to that decision, and indeed following consideration of the application on its merits alone, I have concurred with the Council in respect of the effect on living conditions and future amenity space.
7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R. E. Jones

INSPECTOR