



Costs Decision

Site visit made on 30 November 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2020

Costs application in relation to Appeal Ref: APP/X5990/W/19/3239989 54 Ledbury Road, London W11 2AJ

- 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 SJ Stordy for a full award of costs against City of Westminster Council.
 - The appeal was against the refusal of planning permission for development described as 'Planning application for the existing first floor terrace'.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and where the unreasonable behaviour has directly caused unnecessary or wasted expense in the appeal process.
3. It goes on to explain that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to procedural matters or to the substance of the matter under appeal. Examples given within the PPG of unreasonable behaviour include preventing or delaying development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations.
4. As part of the planning application originally submitted to the Council, the applicant provided a statement by Jessop Associates Daylight and Sunlight Consultants which considered the effect of the development on a window to the neighbouring dwelling at 1 Wellington Close. I note the Council's view in this case that the nature of its concerns regarding the effect of development on both light and outlook for No 1 could not be satisfactorily overcome by further information, but in any case there is no obligation on the Council to necessarily request additional information from an applicant in response to concerns.
5. Nevertheless, the applicant submitted further representations pertaining to the effect of development on No 1, including an email from a Daylight and Sunlight Consultant dated 25 June 2019. The original assessment and email of 25 June are listed within the plan numbers on the Council's decision notice. The Council's report on the application also refers to a 'Daylight and Sunlight Report' and a supplementary report in response to a neighbour objection, and provides a broad summary of the conclusions regarding light to the window to No 1. Irrespective of whether information was requested from the applicant, I am not persuaded from my reading of the submitted evidence that the Council

ignored or failed to have proper regard to the information which was before it at the time of its decision.

6. I accept that it is somewhat unusual for a dwelling to have a window facing directly into a neighbouring site, and there is no dispute in this case that the appeal site is outside of the curtilage of No 1. Nevertheless, whatever its origin, the window is an existing feature to a dwelling. Whether or not there was an explicit reliance placed on this window when permission was granted for the conversion of No 1 to this dwelling, I am not persuaded that the unusual relationship means that any contribution that it may make to the living conditions of occupiers of No 1 should be disregarded in principle. Further, it seems to me that the effect of development within the appeal site on this window may be a relevant consideration, in much the same way as the effect of any development on a site that may affect windows of neighbouring buildings should be considered.
7. Turning to the Council's assessment of the effects of development on this window, I note references within the applicant's evidence to guidelines provided by the Building Research Establishment on the assessment of light to dwellings and new development. Nevertheless, the actual contribution that light levels received make to living conditions within a dwelling, as well as the impact resulting from any change in these, remain matters of planning judgement. The Council's evidence does not dispute that the affected window did not receive a significant level of light, but clearly explains the reasoning supporting its view that the development would result in harm and conflict with relevant policies of the development plan as a consequence of a worsening of the situation in respect of both light and outlook for occupiers. Irrespective of the applicant's assessment of probable light levels to the room within No 1 prior to the appeal development and that I have ultimately disagreed with the Council, I do not consider that it behaved unreasonably in reaching the conclusion that it did in this regard.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, for the reasons given above, the application for a full award of costs is refused.

J Bowyer

INSPECTOR