



Costs Decision

Site visit made on 30 September 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2020

Costs application in relation to Appeal Ref: APP/C5690/W/20/3255607 26 Tewkesbury Avenue, London SE23 3DQ

- 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 Ms Jo Sharp for a full award of costs against the Council of the London Borough of Lewisham.
 - The appeal was against the refusal of planning permission for complete refurbishment of existing house with new side extension, small infill rear extension and loft conversion.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 or wasted expense in the appeal process.
3. The applicant's application for costs is based on the alleged unreasonable behaviour of the Local Planning Authority (LPA) and wasted expense, for the reasons considered below.
4. The LPAs report on the planning application acknowledges that its adopted Alterations and Extensions Supplementary Planning Document (SPD) is guidance. Furthermore, the report detailed the proposal and its setting with reference to existing relevant extensions to nearby properties. In its report, the LPA sought to draw a distinction between the policy and design guidance context which previous extensions were approved under and their design merits.
5. Moreover, the consideration of the proposal, as set out in the LPAs report included an assessment of its effects on the appeal property and area. This assessment is supported by reference to the SPD and specific and relevant policies of the development plan. The decision notice also clearly states the reason and policies which the development was found to be in conflict with.
6. As to how the LPA interprets its SPD and the amount of weight that is attached to this along with other considerations is a matter of planning judgement for the decision maker, which also involves a degree of subjective analysis, including on matters relating to character and appearance, such as 'openness'.

7. Consequently, the reason for refusal in the LPAs decision notice is complete, precise, specific and relevant to the application. Furthermore, the LPAs conclusions about the impact of the proposal are clear and supported by sufficient analysis. Accordingly, for the above reasons and on the information before me, I am satisfied that the LPA understood the applicant's proposal and has met its obligation pursuant to Section 38(6) of the 1990 Act.
8. It is clear from the LPAs decision notice that its principal objection to the proposal relates to the impact of the proposed two storey-side extension along with the hip-to-gable conversion of the roof, on the appeal property and area. Although the LPA raised other matters in relation to the submitted scheme, this is not unusual or uncommon. In particular, as some of these could have been raised by consultees or were not significant enough to be reasons for refusal or could be addressed by conditions, had the proposal been acceptable to the LPA in other respects. In any event, these matters did not form part of its reason for refusal and the applicant chose to address these at her discretion.
9. Some of the issues relating to the design of the proposal were raised late in the application process. Nevertheless, the application was still being considered by officers at that stage who were entitled to express views on it. Whilst I understand the applicant's frustration in not having sufficient time to address these issues, a pre-application submission would have been the appropriate forum to ensure that any potential issues were appropriately identified and addressed in a timely manner.
10. I am satisfied that the LPA responded to communication from the applicant and although the replies may not have been to the applicant's satisfaction, there is nothing before me to suggest that the LPA did not have regard to the matters raised in determining the planning application. Furthermore, on the basis of the information before me, I cannot be certain that any additional discussions or an amended proposal would have resulted in a favourable outcome for the applicant.
11. Given all of the foregoing and despite finding the appeal in favour of the applicant, I find that the LPA did not act unreasonably in this case. Accordingly, it is not necessary to consider the question of unnecessary or wasted expense. I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a full award of costs is not justified.

M Aqbal

INSPECTOR