



Costs Decision

Site visit made on 10 November 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th January 2021

Costs application in relation to Appeal Ref: APP/H5390/D/20/3253604 23 Richford Street, London W6 7HJ

- 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 David Searle for a partial award of costs against the Council of the London Borough of Hammersmith & Fulham.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of rear extensions at lower ground, upper ground, and first floor levels.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) 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. Paragraph 049 of the PPG¹ states that examples of unreasonable behaviour by local planning authorities include, among other things, not determining similar cases in a consistent manner.
3. The Council refused an earlier planning application at the appeal site² because of the effect of the proposed first and second floor extensions on neighbours' living conditions (not 'solely on the grounds that the roof extension was unacceptable', as described in the applicant's costs claim). The Council raised no concerns in respect of the proposed lower ground floor and ground floor extension in its previous decision. A new planning application, the subject of the appeal, omitted a second-floor extension but was described by the applicant as being otherwise 'almost identical to the previous application'. The applicant's claim of unreasonable behaviour is essentially that the Council's concerns in respect of the previous application had been addressed, and that in refusing the appeal proposal it therefore acted inconsistently and unfairly.
4. I was provided with the floor plans, officer report and decision notice in respect of the earlier planning application, as well as the applicant's summary of the differences between it and the appeal proposal. In the earlier scheme, the proposed lower ground floor and ground floor extension would have projected around 1.8m beyond the rear of the existing closet wing, and the officer report concluded that 'whilst the extension would be substantial in size, the property

¹ Reference ID: 16-049-20140306

² LPA reference: 2018/03952/FUL

is located within a generous setting, therefore it is considered to be capable of accommodating an extension of this size'. In the appeal scheme, this projection would have been around 2.1m, and the officer report described the extension as 'an addition of significant bulk [which] would overwhelm the host property'.

5. In almost any proposal where they are relevant considerations, there is likely to be a point where the size and scale of a development would cross a line from being acceptable to being harmful. Where this line is will be a matter of planning judgement, and the main parties had different views on this matter. The applicant argued that another 0.3m or so would be a small increase in absolute terms and would have made little difference to the overall impact of the development. For the Council however, while the earlier scheme had been acceptable in terms of size and scale, the additional projection 'crossed the line' and was considered unacceptable. Both views are matters of planning judgement.
6. In reaching my appeal decision it was not necessary for me to consider in detail the potential impact of the earlier refused planning application, and my decision in respect of the appeal is not determinative in respect of the costs application. However, for the reasons set out in my main decision, on the balance of the evidence before me I agreed with the Council's view in respect of the effect of the proposed extension. Regardless of this, given the changes between the earlier planning application and the appeal scheme, the Council was within its rights to reach a different conclusion in respect of the effects on character and appearance. The Council assessed the proposal on its own merits and against the relevant development plan policies, and I therefore do not consider that it acted inconsistently or unfairly in its decision making.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

M Cryan

Inspector