

Costs Decision

by Mr Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2021

**Costs application in relation to Appeal Ref: APP/E5330/D/20/3255872
33 Kellaway Road, Kidbrooke, London SE3 8PW**

- 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 Ahmad Qane for a full award of costs against Royal Borough of Greenwich Council.
 - The appeal was against the refusal to grant approval required for a proposal described as "Single storey rear extension to match existing house."
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Decision

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

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 application for costs relies on procedural matters, in that the application for prior approval was refused on the basis of an error on the submitted floor plan, showing the side wall of the proposed extension extending into the curtilage of the neighbouring property. The applicant contends that the Council should have contacted the agent in order to request amended plans, rather than proceeding to determine the application. It is stated that this has necessitated the submission of a further application which incurred an additional fee.
4. The applicant accepts, within the grounds of appeal, that the plans were incorrect. Moreover, the appellant also accepts that the mistake results from the plans and application being rushed. Whilst I acknowledge that the applicant considered the error to be insignificant, it was such that it resulted in the Council being unable to grant approval, a finding I have also made when making my decision. The Council is entitled to base its decision on the information it receives and while it may have been a simple matter to correct the error, given the timescales involved when dealing with prior approval applications, I find nothing unreasonable in the Council determining the application on the basis of the submitted information.
5. The appellant has commented that the submitted floor plan, on which the error is contained, was not required as part of the application. Notwithstanding this, the applicant chose to submit this information as part of the application to the Council for its consideration. The inclusion of this incorrectly drawn plan created a contradiction between the drawings and thus within the information before the Council. Whilst it may have been provided as additional information, it served to create uncertainty as to the extent of the proposal.
6. I am also conscious that the Council state that it would have been necessary to re-notify neighbours of any amended plans, which would have taken the application outside of the deadline to make a decision. I have no reason to doubt this and this

further supports the Council's decision to determine the application on the information that was before it.

7. Within the costs application there is reference to seeking costs in relation to the fee required for the subsequent application that was submitted to the Council, as well as to matters in respect of the initial submission of the application. These however are matters outside of this appeal process. It has also been raised whether or not a fee should have been required for the subsequent application. However, that is a matter between the applicant and the Council outside of the appeal that is before me and is therefore not a matter I need to consider.
8. 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.

Martin Allen

INSPECTOR