



Costs Decision

Site visit made on 12 February 2021

by A. J. Boughton MA(IPSD), Dip.Arch, Dip.Conservation, RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2021

Costs application in relation to Appeal Ref: APP/M5450/D/20/3262838 4 Julius Caesar Way, Stanmore, HA7 4PZ

- 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 and Mrs Shah for an award of costs against the London Borough of Harrow.
 - The appeal was against the refusal of London Borough of Harrow to grant planning permission for demolition of existing conservatory, single storey rear extension first floor side and front extensions, porch extension, garage conversion, alterations and insertion of new windows/doors.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. In summary, the applicant submits that the first refusal reason was unreasonable because the Council's own assessment of the proposal should have led it to conclude the proposal was not inappropriate development in the green belt. The applicant also contends that the second reason for refusal was ill-founded.
4. With regard to the first reason for refusal the Council's reasoning states¹ that the percentage changes in volume and area 'appear to represent proportionate additions'. However, the first refusal reason states that the extensions 'give rise to disproportionate additions' making reference to 'unacceptable development within the green belt' in the officer report.
5. National policy is clear² that the construction of new buildings is inappropriate in the Green Belt but also that certain types of development are excepted from that preclusion, particularly in this case 'extensions or alterations of a building provided that it does not result in disproportionate additions...'. Although the Council acknowledge this exception they go on to make an assessment that the

¹ In Delegated application Report- 'impact on green belt'

² Framework para 145

proposed (side and front) extensions would cause harm to the 'openness of the street scene and this green belt site' leading to a conclusion of inappropriateness, notwithstanding their previous assessment of proportionality.

6. The Council have not advanced a justification for their approach. Whilst it seems the Council's reasoning derives from an implication that there was a 'disproportionate' visual impact from the extension this is to conflate concerns about character and appearance with the entirely separate concept of openness. There is no evidence that the Council made any attempt at a wider contextual assessment or took account of the fact that the appeal site lies within an area of built development where openness is already significantly eroded. Taking a 'second bite' at the substantive issue as to the effect of the proposed development on character and appearance is not reasonable and will have caused unnecessary or wasted expense.
7. I turn briefly to the second reason for refusal. Whilst the Council's reasoning was not persuasive I find nothing that indicates unreasonable behaviour on the part of the Council in their evaluation and reasoning.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that London Borough of Harrow shall pay to Mr and Mrs Shah, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in responding to the first reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to the London Borough of Harrow, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew Boughton

INSPECTOR