



Costs Decision

Site visit made on 23 February 2021

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2021

Costs application in relation to Appeal Ref: APP/Q5300/D/21/3266896 70 Prince George Avenue, Southgate, London N14 4SP

- 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 Dr P & Mrs S Belavadi for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for a patio to the rear of the dwelling.
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Decision

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

Reasons

2. The Government's online 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 essence the applicants consider that the Council has mishandled the application, including a flawed analysis in the officer report and inaccurate / unsubstantiated assertions in respect of the adverse effect on No. 68.
4. However, it is clear from the evidence that the Council's case officer adopted a helpful attitude towards the application but his appraisal was difficult because the Covid pandemic prohibited site inspections, including the garden of No. 68. When the site visit was made some time later, the officer made some measurements of the parapet wall and the fence but these were criticised on behalf of the appellant as being either incorrect or irrelevant.
5. From my Decision it will be clear that the parapet wall does have some relevance, albeit limited, because although it forms part of a different application, its height is read in conjunction with the higher than normal fence. As regards the fence height itself, it would appear that the measurement of its extent above the standard 2m relative to the ground level of No. 68's garden was essentially correct. And towards the end of the period it took to determine the application, the case officer's discussions with senior officers led to the conclusion that the adverse effect on the outlook from No. 68 justified a refusal of permission.
6. The handling of the application was inevitably difficult because neither the appellant nor the case officer were familiar with the aspect from No. 68 until there was some clarification following the site visit in late October. Even then there was disagreement. However, the approach to the application changed

from generally supportive to one of refusal because the Council's understanding of the development also changed. I consider this to be reasonable.

7. In my Decision I have explained that I consider that the raised patio and the boundary fence does have some adverse effect on the outlook from No. 68. However, I have also explained that on balance and taking the physical context and other matters into account, the impact would be insufficient to withhold permission. This is a matter on which there will be different opinions and there are no absolutes of 'wrong' and 'right'. Clearly the occupier of No. 68 regards the development as having a significantly harmful effect on his amenity and as the person most affected he is fully entitled to that view. I have taken it into account, but on the evidence before me have come to a different conclusion.
8. With all things considered I make no criticism of the Council's behaviour in its handling of the application, including its eventual support of the neighbour's objection. On the particular position of the fall back, put forward as an example of the Council failing to give due weight to a material consideration, at the time of the decision and indeed my own visit this was the appellants' opinion rather than established fact under the LDC procedure. Because of this, the Council was not duty bound to give it much significance. In the event I did not find it necessary to consider the fall back because I decided the appeal scheme should succeed on its own merits.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.
10. Accordingly, the application for an award of costs is refused.

Martin Andrews

INSPECTOR