

Costs Decision

Site visit made on 27 May 2021

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2021

Costs application in relation to Appeal Ref: APP/M5450/D/21/3270935 Land at 12 Wilsmere Drive, Harrow Weald, Middlesex, HA3 6BJ

- 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 M Jaffer for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for the removal of garage and rear conservatory and erection of a single storey side extension.
-

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. Paragraph 047 of the PPG makes clear that local planning authorities (LPA) are at risk of an award of costs if they delay providing information or otherwise fail to adhere to deadlines or if they introduce fresh evidence at a late stage, necessitating extra expense for work that would not otherwise have arisen.
4. The appellant's case is firstly, that the LPA failed to cooperate with the other party or with the Planning Inspectorate in that it submitted its appeal questionnaire after 10 working days and not the required five working days; and secondly, that it introduced new evidence as a rebuttal document which is not permitted in the case of a Householder Appeal.
5. I agree that it was unreasonable of the LPA to submit their questionnaire late. However, under the Householder Appeal process there is no opportunity for the appellant to respond to the Council's documents and so there was no wasted expense because a rebuttal was not permitted or required. Neither did the lateness of the questionnaire hold up the appeal process.
6. Turning to the second matter, paragraph C.7.2 of the Procedural Guide for Planning Appeals – England, March 2021, states that in the case of an appeal following the Part 1 procedure which includes Householder Appeals

the LPA should, with its documentation, identify any factual error in the appellant's grounds of appeal. This is what the LPA has done, highlighting references to 13 Wilsmere Drive set out in the appellant's Appeal Statement and making clear that the appellant's evidence that this dwelling has undergone a side extension, similar to the one proposed, is factually incorrect and that no additions have been made to that property (other than a detached garage). The LPA therefore followed the correct procedure and there was no need for the appellant to respond to this factual correction.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that an award of costs is not justified.

KE Down

INSPECTOR