
Costs Decision

Site visit made on 24 August 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2021

Costs application in relation to Appeal Ref: APP/A5270/D/21/3269365 40 Cayton Road, Greenford UB6 8BJ

- 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 Sunil Patel for a full award of costs against the Council of the London Borough of Ealing.
 - The appeal was against the refusal of planning permission for demolition of garage for the proposal of a two storey side extension and the enlargement to existing single storey extension to the rear.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably, and this has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The application needs to clearly demonstrate that this is the case, as parties in planning appeals normally meet their own expenses.
3. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes both procedural matters, such as providing information that is shown to be manifestly inaccurate or untrue; and substantive matters, including: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other considerations; vague and generalised or inaccurate assertions about a proposal's impact which are unsupported by an objective analysis; and, not determining similar cases in a consistent manner.
4. The crux of the applicant's costs claim is that the Council has ignored the existing site context; it has not determined similar cases in a consistent manner; and it has applied Supplementary Planning Document 4 (SPD4) as though it is mandatory policy rather than guidance. Furthermore, the applicant states that the Council has changed the description of the proposed development without their permission.
5. Policies 7.4 and 7B of the Ealing Development Management Development Plan Document Adopted December 2013 seek high quality design in new development. Policy 7.4 states that development in Ealing's existing built areas should, amongst other things, complement their street sequence; building

pattern; and scale. Whilst SPD4 is of some age, it provides design guidance for householder developments, including two storey side extensions. This includes that a proposed side extension should be set back at least 1 metre from the front wall and set down 0.5 metre from the ridgeline of the main roof. I find that the design principles relating to scale and massing are reasonable because they encourage extensions that appear subordinate to and respect the proportions of the host dwelling. Nevertheless, it is guidance and should not be applied rigidly.

6. The applicant has drawn my attention to Council decisions at No 1 Runnymede Gardens and No 1 Middleton Avenue, however these examples are not directly comparable to the appeal scheme before me. In both instances, the officer's report identified mitigating circumstances that weighed in favour of the proposal. The side extension at No 1 Runnymede Gardens is much wider than the current appeal scheme, however it provides a 1m set back and the 0.5m set down sought by SPD4. The example at No 1 Middleton Avenue relates to a detached dwelling and so it is of different form and proportions to the semi-detached property at No 40 Cayton Road. The applicant also refers to the Council decision at No 66 Runnymede Avenue, and whilst this site is in a more prominent location, the extension is set back 1m from the front wall and set down 0.5m from the ridgeline. Given the differences between the proposals, I am not persuaded that the Council has been inconsistent in its decision-making.
7. The applicant also identifies several other properties in the locality that have had two storey side extensions. Details of the circumstances that led to the approval of those examples are not before me, and I saw that the design quality varies. No 7 Runnymede Gardens has a side extension without any set back from the front wall or set down from the ridgeline of the main roof, and this has un-balanced the semi-detached pair, resulting in a bulky, disproportionate appearance. The extension at No 91 Darynton Drive is set down from the ridgeline of the main roof, however this is because the roof is at a shallower pitch, which appears rather awkward. The side extension at No 11 Cayton Road is more successful because it appears proportionate to the semi-detached building due to the degree of set back from the front wall and the set down of the matching hipped roof.
8. To my mind, the presence of extensions of varying quality in the locality would not itself justify the proposal and it is reasonable that the appeal scheme is considered on its own merits having regard to the current development plan policies, which seek high quality design. The Council raised concerns regarding the degree of set back of the proposed two storey side extension from the front wall of the dwelling and the set down from the ridgeline of the main roof. As can be seen from my decision, I have found that the proposal would achieve a subordinate appearance and integrate satisfactorily with the host dwelling. However, considerations relating to scale and massing are inevitably a matter of planning judgement and I do not find that the Council acted unreasonably in reaching its decision.
9. I acknowledge that the Council changed the description of the proposed development without the consent of the appellant. However, in my decision I have used the description shown in the application form and this has not resulted in unnecessary or wasted expense to the applicant.

Conclusion

10. For the reasons given above, I determine that the costs application should fail, and no award is made.

C Osgathorp

INSPECTOR