
Costs Decision

Site visit made on 20 August 2021

by A M Nilsson BA (Hons) DipTP MRTPI

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

Decision date: 8th September 2021

Costs application in relation to Appeal Ref: APP/Y5420/D/21/3268817 20 Franklin Street, London N15 6QH

- 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 G Schreiber for a full award of costs against the Council of the London Borough of Haringey.
 - The appeal was against the refusal to grant prior approval for the proposed enlargement of a dwellinghouse by construction of an additional storey pursuant to Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 1, Class AA.
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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 only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG outlines that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. One example of such unreasonable behaviour is preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant is of the view that the Council acted unreasonably on a number of grounds that I have considered below.
5. The applicant considers that the Council prevented or delayed development which should clearly have been permitted. As can be seen from my decision, I have dismissed the appeal due to the effect of the proposed development on matters of external appearance. I therefore can not agree that the development should have clearly been permitted and therefore there is not unreasonable behaviour in this regard.
6. The applicant also considers that the Council acted contrary to, or did not follow, well established case law. I also considered this argument in my decision, where I found that the case law to which the applicant referred, whereby it was outlined that '[the] ordinary meaning of the language used is to

be ascertained when construing the development order in a broad or common sense manner' was not failed to be followed in this case. As the relevant part of the Order refers to external appearance as 'including' a number of factors, that is not a closed list, the Council did not act unreasonably in considering the external appearance in a context wider than simply the appeal property. I therefore do not consider that this represents unreasonable behaviour.

7. In a similar vein, the applicant considers that the Council misinterpreted the GPDO. As can be seen above, and in my decision, I do not find this to be the case, and it therefore does not amount to unreasonable behaviour.
8. The applicant considers that the Council have failed to produce evidence to substantiate each reason for refusal on appeal. The Council's case is clearly and precisely set out in their Decision Notice and Officer Report as to why they considered the proposed development to be unacceptable.
9. I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the development which justified its decision. The applicant had to address those concerns in any event.
10. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense. I find nothing to suggest that a decision was not reached on the basis of the planning merits of the development.

Conclusion

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

A M Nilsson

INSPECTOR