



Costs Decision

Site visit made on 20 August 2021

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2021

Costs application in relation to Appeal Ref: APP/P5870/D/21/3272538 2 Brocks Drive, Cheam, Sutton SM3 9UJ

- 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 D Moss against the decision of London Borough of Sutton.
 - The appeal was against the refusal of planning permission for 'erection of a single storey rear extension and conversion of loft space involving alterations to existing roofline, hip to gable with a dormer extension at rear and rooflights to front roofslope'.
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Decision

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

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. The Appellant alleges that the Local Planning Authority (LPA) failed to carry out a site visit. Further, that upon receiving photographs of the site, it determined the application too quickly for a proper assessment to have taken place. The Appellant also suggests that a permitted development 'fallback' position should have been considered. The Appellant thus considers that the LPA behaved unreasonably in that:
 - It made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and,
 - That it prevented or delayed development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material considerations.
3. It is apparent from the LPA Officer's Delegated Report and the LPA's response that the site was not visited. At that time, site visits for the purpose of town planning were deemed as 'essential travel' and were not prevented by National or Local Covid-19 restrictions. The LPA and individual officers were, however, entitled to make their own risk assessments in respect of both methods of travelling to sites and entering sites. It is therefore understandable that the LPA may have requested photographs of the site so to avoid its officers needing to enter private dwellings. Whilst it is regrettable that the LPA opted not to carry out a site visit from within the public realm or to explicitly justify its lack of doing so, this does not amount to unreasonable behaviour on the LPA's part in this context.

4. Whilst reliance on planning history searches, applicant photographs and aerial photography is second in quality to an in-person visit, it is clear from the Officer's Delegated Report that they carried out an assessment of the site and the conclusions that they reached were based in fact. The observations that the Officer regarding site context and prevalence of similar extensions are correct. The examples of similar development cited by the Appellant are not within the streetscene of Brocks Drive and have different contexts.
5. The LPA determined the application quickly once photographs of the site were provided, however, it does not follow that it would have been impossible to carry out a proper assessment of the scheme. Indeed, the Officer's Delegated Report is evidence of such assessment and there is no contrary evidence to suggest that the application was pre-determined.
6. A permitted development 'fallback' must be realistic; not just a theoretical prospect of being an alternative. A 'fallback' must be identified in sufficient detail that it may be compared to what is proposed. Whilst the appeal site benefits from permitted development rights for roof extensions, the Appellant had not identified a comparable detailed scheme which would have realistically taken place. The appeal scheme includes a much larger and more massive roof extension than that which could be achieved by utilising permitted development rights. As such, it was not unreasonable behaviour on the part of the LPA to have not addressed permitted development in the context of the scheme.
7. I do not find that the LPA has delayed or prevented development which should clearly have been permitted. Indeed, I have not disagreed with the LPA's overall assessment, which I acknowledge is based on balanced matters of judgement. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Kim Langford Tejrar

INSPECTOR