



Costs Decision

Site visit made on 8 June 2021

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Costs application in relation to Appeal Ref: APP/Z5060/W/20/3253291 171 Ivyhouse Road, Dagenham RM9 5RR

- 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 Bharadia for a full award of costs against the Council of the London Borough of Barking and Dagenham.
 - The appeal was against the refusal of planning permission for conversion of existing 2 bed dwelling into 2 x 1bed apartments by means of single storey rear extension and loft conversion with rear dormer.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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. A full award of costs is sought by the applicant on both procedural and substantive basis.
4. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. It will be seen from my decision that there were not sufficient grounds for refusing planning permission relating to the loss of family housing, and that the details of the skylight/rooflight could have been controlled by planning condition.
6. There is a disagreement between parties as to the loss of a family dwelling, reason for refusal No. 1. I agree with the Appellant that there has been no loss of a family house given the existing floor plans demonstrate that the existing property is a 2 bedroom dwelling. Policy BC4 seeks to preserve and increase the stock of family housing, specifically referring to resisting proposals which involve the loss of housing with three bedrooms or more. The appeal site is a 2 bedroom property it is therefore difficult to substantiate the reasons for refusal No. 1.
7. In relation to the skylights outlined in reason for refusal No. 2 the Council have not provided substantive reasoning why this matter could not be controlled by

the imposition of a planning condition. During my site visit I observed that skylights/rooflights are not an alien feature in the area. The opening mechanism is something which could be controlled by the imposition of a planning condition.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated, in this case having to prepare a case in relation to the reasons for refusal and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Barking and Dagenham shall pay to Mr Bharadia, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to reasons for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to the Council of the London Borough of Barking and Dagenham, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Pipe

INSPECTOR