
Costs Decisions

Site visit made on 20 August 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2021

Costs application A in relation to Appeal Ref: APP/Y5420/D/21/3271478 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 Getzel 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 a 6-metre ground floor extension pursuant to Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 1, Class A.
-

Costs application B in relation to Appeal Ref: APP/Y5420/D/21/3271479 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 Getzel 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 a 6-metre ground floor extension pursuant to Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 1, Class A.
-

Decision Application A

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

Decision Application B

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

Preliminary Matter

3. The costs applications are made against two separate appeals concerning the refusal to grant prior approval. Although they are separate, and the initial applications were made chronologically, the matters in each case are such that it is appropriate to deal with these applications in a single Decision document.

Reasons

4. 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.
5. 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.

6. The applicant is of the view that the Council acted unreasonably on a number of grounds that I have considered below.
7. The applicant considers that the Council applied an erroneous interpretation of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) on a number of points.
8. The applicant considers that only adjoining owners or occupiers are to be consulted. Paragraph A.4(5) outlines that the local planning authority must notify each adjoining owner or occupier about the proposed development by serving on them a notice. My interpretation of this requirement is that it does not imply that 'only' adjoining owners or occupiers can be consulted, as the applicant considers, therefore in notifying parties beyond this requirement, even if not required, does not amount to unreasonable behaviour.
9. Paragraph A.4(5)(d) outlines that the notice to be served on any adjoining owner or occupier specifies the date (being not less than 21 days from the date of the notice) by which representations are to be received by the local planning authority. The applicant considers that the Council acted unreasonably in taking into account an objection received after the 21-day period. The GPDO does however specify that such a timescale is 'not less than' 21 days and there is no inference that comments received after this deadline, assuming the application remains under consideration, should be disregarded. I therefore do not consider this to amount to unreasonable behaviour.
10. The applicant considers that the Council acted unreasonably in taking an objection into account that did not relate to 'amenity' grounds. Paragraph A.4(9)(a) sets out that the local planning authority must, when considering the impact referred to in sub-paragraph (7), that being on the amenity of any adjoining premises, take into account any representations made as a result of the notice given. There is nothing in the order to suggest that where an objection is made on grounds other than amenity, it should not be taken into account for the purposes of having received an objection to the proposal, simply that the receipt of an objection triggers the requirement of the local planning authority to consider the impact on amenity of all adjoining premises.
11. The appeal does however centre on whether the objection that was received was from an adjoining premises. In construing the objection as such, the applicant considers the Council acted unreasonably. As can be seen from my decision, from the evidence before me, I did not consider the objection that was received constituted that from an owner or occupier of an adjoining premises.
12. In order to reach my conclusion, I found it necessary to seek clarification and further evidence from both parties as in the first instance it was not certain that the objection was, or was not, from the owner or occupier of an adjoining premises. With this lack of certainty, I do not consider that it amounted to unreasonable behaviour on the side of the Council to consider otherwise, if

indeed with further evidence, I have found this to be incorrect, as per my decision.

13. As a result, it follows that I cannot agree that the Council has acted unreasonably in these cases. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

14. 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 in either case.

A M Nilsson

INSPECTOR