
Costs Decision

Site visit made on 29 November 2021

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2021

Costs application in relation to Appeal Ref: APP/L5810/D/21/3281798 8A Park Avenue, Hounslow TW3 2LZ

- 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 Adam Gibbins for a full award of costs against of Richmond Upon Thames London Borough Council.
 - The appeal was against the refusal of to grant approval for 5m single storey rear extension with pitch roof.
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Decision

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

Reasons

2. The National 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 or wasted expense in the appeal process.
3. PPG provides examples of unreasonable behaviour by local planning authorities. These include the failure to produce evidence to substantiate reasons for refusal and making vague, generalised or inaccurate assertions unsupported by objective analysis as well as preventing or delaying development that should have been permitted. It also refers to not determining similar cases in a consistent manner.
4. The GPDO¹ states where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises. The Council received such comments and therefore needed to consider these matters.
5. While I have not agreed with the Council, they have provided a reasoned justification as to how they reached their decision based on relevant factors relating to amenity. That there is disagreement between those involved is not uncommon and does not imply unreasonableness.
6. Although the depth of the extension at 120 Argyle Avenue is said to be greater than in the appeal scheme, I do not have full details, such as plans, of that scheme. Therefore, I cannot be certain that it is directly comparable to the proposal before me and had the same relationship with the adjoining premises.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Consequently, it has not been shown that the Council have been inconsistent in determining similar submissions.

7. The GPDO indicates that the local planning authority may require the developer to submit further information regarding the proposed development as the authority may reasonably require in order to determine the application. However, as with seeking amendments, this is not something the Council are bound to request.
8. In this instance, the Council have indicated that they would have still refused to grant approval even if a daylight and sunlight assessment were submitted. Therefore, one being submitted prior to the decision would not have avoided the need for, and expense, of the appeal.
9. The decision notice referred to the incorrect part of the GPDO. Nonetheless, it was clear from the officer report that the Council had assessed the scheme against Part 1, Class A and the appellants statement addressed this also. Therefore, there was no wasted expense involved.
10. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case in a way that has put the applicant to unnecessary or wasted expense.

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.

Stuart Willis

INSPECTOR