



Costs Decision

Site visit made on 14 December 2021

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5TH January 2022

Costs application in relation to appeal ref. APP/L5810/D/21/3283494 Land at 30 Jubilee Avenue, Twickenham TW2 6JB

- 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 Ram Chouhan for a full award of costs against the Council of the London Borough of Richmond upon Thames.
 - The appeal was made against the refusal of planning permission for "*Single storey rear extension and double storey side extension.*"
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Costs decision

1. The application for a full award of costs is refused.

Reasons for the costs decision

2. The Government's Planning Practice Guidance (the Guidance) advises that all parties in appeals are expected to behave reasonably to support an efficient and timely process and that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. This application for costs has been considered on its merits in the light of the costs advice found within the Guidance, the appeal papers, the costs correspondence and all the relevant circumstances relating to the planning application and the appeal. The parties are also referred to my appeal decision.
4. No commentary is actually offered by the applicant to cross-reference the specific facts of the case to the Guidance. The Council has not responded to the application. This application for an award of costs could be said to be made on a procedural basis, relating to the appeal process and taking into account the Council's behaviours and actions at the time of the planning application and on a substantive basis, relating to the planning merits of the appeal.
5. The applicant is critical of the Council for failing to take into account his agent's representations about the approach adopted at a similar property (10 Jubilee Avenue) where a similar side extension was granted planning permission under ref. 20/2617/HOT, a short while before the subject application.
6. Without sight of those representations, the plans approved at 10 Jubilee Avenue and the full planning report into that application, it is difficult for me to fully examine the applicant's assertions or form a clear view as to whether or not this matter should have been addressed in the planning report on the application the subject of this appeal. This other case was highlighted by the applicant to show that the Council does not always follow its own guidance for

2-storey side extensions to be sited one metre from the side boundary. I did note on my site visit that the open passageway between nos 10 and 12 is likely to be retained in the building work at no. 10. In any event, the parties will be aware that I found in favour of the appeal scheme on the matter of the spatial pattern that would be created. The position at no. 10 was not critical to that judgement. Moreover, it was of no relevance to the detailed design flaws the Council had identified and upon which my decision ultimately turned.

7. The Council is encouraged by the National Planning Policy Framework (the Framework) to make decisions on planning applications as quickly as possible and within statutory timescales. Having found that the scheme did not comply with the development plan, the Council was entitled to reach the decision it did. The Framework also encourages potential applicants to seek pre-application advice. According to section 13 of the householder application form, the applicant chose not to use these services which are designed to be beneficial to all parties and the planning process more generally. This might well have been the most appropriate arena for discussions about the potential significance of other planning permissions granted in Jubilee Avenue.
8. On the evidence available to me, I consider that the Council exercised its duty to determine the planning application in a reasonable manner. There is thus no procedural basis for an award of costs against the local planning authority.
9. The Council's planning report was supported by various planning facts with reference being made to the development plan and a supplementary planning document. In my appeal decision it will be seen that the Council's objections to the proposed side extension were twofold. The reason for refusal stood up to scrutiny on the planning merits of the case in respect of the incongruous detailed design. Although I did not agree with the Council's stance on the general spatial effect, the Council's reasoning on this matter did not lack substance or objectivity. The Council's approach to the available facts did not fully match any of the types of behaviour listed in the Guidance that may give rise to a substantive award against a local planning authority.
10. In particular, the Guidance advises that where a local planning authority has refused a planning application for a proposal that is not in accordance with development plan policies, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. That is the scenario before me in this case, such that there is no substantive basis for an award of costs against the local planning authority.
11. This application for costs falls short of demonstrating that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has occurred. An award of costs is not justified.

Andrew Dale

INSPECTOR