



Costs Decision

Site visit made on 4 March 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Costs application in relation to Appeal Refs: APP/V5570/W/21/3287963 and APP/V5570/Y/21/3287964

45 Arlington Avenue, Islington, London N1 7BE

- 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 James Guest for a full award of costs against London Borough of Islington Council.
 - The appeal was against a refusal of planning permission and listed building consent for the installation of an external stair to rear garden and minor alterations to existing garden layout.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. It goes on to state 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, which can include not determining similar cases in a consistent manner.
3. In this instance, the proposed development is markedly similar to part of a development previously consented by the Council in 2010, under planning permission P092637 and listed building consent P092638 (2010 Consents). Indeed, the 2010 Consents approved a very similar staircase in the same location as the development now proposed. Whilst there are slight differences in design, the proposed materials are broadly comparable. Moreover, the bulk of the staircase has actually been reduced under the present application when compared to the scheme approved under the 2010 Consents, thereby reducing its overall impact.
4. The Council argues that the staircase approved under the 2010 Consents was part of an alternative extension design, and thereby not overly relevant to the proposal in hand. I disagree with this assessment. The extension approved under the 2010 Consents was substantively similar to the one now in situ, and its impact would broadly have been similar. Nonetheless, the Council has provided no substantive evidence to demonstrate how the proposed scheme differs from the previously approved staircase, nor how its impact would be materially different as to warrant refusal.

5. Whilst I acknowledge planning policy, both nationally and locally, has evolved since 2010, the overall thrust of the Council's development plan, particularly with regard to the preservation and enhancement of heritage assets, has remained substantively similar. I see no evidence that there has been such a shift in policy, which would justify a different outcome in present day, when compared to the policy position back in 2010.
6. As a consequence, I consider that the applicant had a legitimate expectation that the application for planning permission and listed building consent would be approved in this instance. Indeed, if the application had been determined in a consistent manner with the 2010 Consents, the applicant needn't have incurred the expenses associated with the appeal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 London Borough of Islington Council shall pay to Mr James Guest, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to London Borough of Islington Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

James Blackwell

INSPECTOR