
Costs Decision

Site visit made on 22 March 2022

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th April 2022

Costs application in relation to Appeal Ref: APP/E5330/D/21/3288561 221 Green Lane, Eltham, London, SE9 3TA

- 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 Menh Su for a full award of costs against the Council of the Royal Borough of Greenwich.
 - The appeal was against the refusal of planning permission for a Single Storey wrap-around extension.
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Decision

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

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.
3. The applicant claims that the Council has acted unreasonably on the following grounds:
 - 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;
 - Vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and
 - Failure to determine similar cases in a consistent manner.
4. The PPG¹ advises that a local planning authority (LPA) could be at risk of a substantive award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example by unreasonably refusing or failing to determine planning applications, failing to produce evidence to substantiate each reason for refusal, or vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. It also advises that LPAs could be at risk of an award of costs if they fail to determine similar cases in a consistent manner.

¹ Paragraph: 049 Reference ID: 16-049-20140306

5. Although I have reached a different decision to the Council in respect of the main issue, this is a matter of subjective judgement. Whilst I have found that the proposal would comply with the SPG², the SPG is for guidance only and the Council are entitled to take other factors into account, such as the height of the proposed extension, when determining planning applications. Moreover, the Council's officer report provided sufficient evidence to support its reason for refusal which is sufficiently clear and precise and it was not unreasonable for the Council to take the view it did.
6. The applicant has highlighted similarities between the appeal proposal and a nearby proposal at 239 Green Lane that was approved by the LPA under reference 18/0058/HD in 2018. However, I do not have full details of that proposal and based on the information before me, I am not persuaded that the Council have acted unreasonably with regard to consistency in decision making. Furthermore, each application is determined on its own merits and I do not consider the approval of application 18/0058/HD at 239 Green Lane to be a 'fallback' position for the proposed development at No 221.
7. The applicant also highlights difficulties encountered in communicating with the Council at the application stage. The PPG states that the local planning authority may be at risk of costs if better communication with the applicant would have enabled the appeal to be avoided altogether. I accept that the applicant must have found the perceived lack of communication with the Council frustrating. However, I have no evidence before me to suggest that better communication with the applicant would have resulted in planning permission being granted in this particular case and thus avoiding the need for the appeal and the expense associated with it.
8. 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.

J Davis

INSPECTOR

² Residential Extensions, Basements and Conversions Guidance SPD (2018)