



Costs Decision

Site visit made on 20 April 2022

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th May 2022

Costs application in relation to Appeal Ref: APP/Q4245/D/22/3294527 4 Chiltern Drive, Hale WA15 9PL

- 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 Anneliese Pantin for a full award of costs against Trafford Borough Council.
 - The appeal was made against the refusal of planning permission for a two storey side extension, internal works to existing property, including new windows to main facade.
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Decision

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

Reasons

2. *Planning Practice Guidance* advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. It is alleged that the Council acted unreasonably in that Councillors had not read or understood the supporting evidence, particularly the Daylight and Sunlight Report and may have been influenced by the neighbouring residents without checking the detail of the plans. It is also suggested that misleading and inaccurate statements were made by Councillors and that some failed to demonstrate objectivity, favoured the neighbouring residents and failed to take account of all relevant planning considerations. It is suggested that a more stringent test than that set out in the Council's Supplementary Planning Guidelines was being required without justification.
 4. The Council has made a decision contrary to the advice of their officers. They are entitled to do so, providing the decision can be justified. The claim for costs does set out some comments made by Councillors and also responses from officers to those comments. I am not able to comment on individual actions based on the evidence before me and in any event, this is not the forum for such considerations. I am only able to assess whether the actions of the Council constituted unreasonable behaviour; and resulted in unnecessary or wasted expense.
 5. The proposal would result in two storey development much closer to the side boundary. It would be more dominant and result in more shading of the
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neighbouring property. The assessment for the Council was whether these changes would be sufficient to unacceptably harm the living conditions of the adjacent residents.

6. Reference has been made to the Council's Supplementary Planning Document SPD 4: A Guide for Designing House Extensions and Alterations 2012 (SPD). The document is clear that it represents guidance. Also of note is that, because the appeal property is a corner plot, the examples quoted within the guidance are not entirely comparable. References to rear extension requirements have been made when considering this side extension and similarly, requirements for side extensions have been set aside given that the addition would be viewed as an extension to the frontage rather than a subservient side addition which the SPD normally anticipates. The SPD is not overly prescriptive or definitive and in this case, the details are often at odds with its generic requirements in any event. The proposal does not meet the full requirements of the SPD and care must be taken in its interpretation given the particular circumstances of this case.
7. The SPD is very clear that protection should be offered to the amenity of neighbouring residents and it makes particular reference to 'well-used garden areas, such as sitting out areas'. Similar specific references are made separately with regard to both light and outlook. Given that the proposal would change shading patterns and outlook with regard to such an area, it is a matter of judgement as to whether this would be unacceptable with regard to the living conditions of the residents.
8. With regard to outlook, I have found nothing to suggest that the Councillors were inadequately informed of the details, particularly as a number had visited the site. With regard to the loss of light at specific times, again, this is a subjective interpretation with regard to how much the increase in shade would impact on the living conditions of the residents; and add to the concerns with regard to outlook. The decision notice refers to an overbearing and overshadowing impact. It concludes that these together would have an unacceptable impact on residential amenity, not that both individually result in such harm.
9. Much has been made of the requirements of the Building Research Establishment Report No. 209 Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE) and the appellant's report. Whilst BRE is designed to provide a more objective assessment, Councillors would no doubt be more familiar with their own document, the SPD, which forms part of the development plan and should rightly be their initial consideration along with Policy L7.3 of the Trafford Local Plan: Core Strategy 2012. If a conclusion with regard to the SPD and its very specific focus on well-used garden areas, such as sitting out areas, is reached, I am not satisfied that compliance with the more generic BRE guidance should necessarily indicate that a different conclusion should be reached. The BRE report is a material consideration to be taken into account in the planning balance. It is not clear that it was not properly considered, particularly as the appellant reports that it was specifically referenced during discussions at the committee meeting.
10. I do not find that it was unreasonable for the Committee to reach the decision that it did. Overall, I am unable to conclude that the actions of the Council fall

within any of the examples of unreasonable behaviour set out in the *Guidance*. Whilst these are not exhaustive, I do not agree that the Council has behaved unreasonably or that any wasted expense resulted from their actions. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the *Guidance*, has not been demonstrated and an award of costs is not therefore justified.

Peter Eggleton

INSPECTOR