



Costs Decision

Site visit made on 27 June 2022

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th July 2022

Costs application in relation to Appeal Ref: APP/R5510/D/22/3297247 42 Greenacres Avenue, Ickenham UB10 8HH

- 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 Ricky Markham for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against the refusal of planning permission for a double storey side and rear extension.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. In determining the appeal, I concluded that the proposal was unacceptable having regard to all the available evidence, and as a result the appeal was dismissed. The appeal scheme is therefore not development which should clearly be permitted having regard to development plan policy, national policy and other material considerations. However, it will be seen from my Decision that I did not agree with the Council's reasoning in all respects.
4. In terms of the first refusal reason, I appreciate that the effects of the proposal on the character and appearance of the area involves subjective judgement. In its officer report the Council applied the criteria in the development plan policies and came to a view. That I took a different view on this matter in my Decision does not dictate that an award of costs should automatically be made. However, the Council's conclusions on this matter were clearly inconsistent with another very similar case in the area which was permitted in the context of the same Development Plan policies. Whilst each proposal should be considered on its merits, consistency in decision making is important and the Council has failed to provide credible evidence to justify taking a different approach in this case. The Guidance is quite clear that one type of behaviour that may give rise to a substantive award against a local planning authority is not determining similar cases in a consistent manner. I therefore find that in respect of the first refusal reason unreasonable behaviour has been demonstrated, with the result that the applicant incurred unnecessary and

wasted expense in tackling a reason for refusal that should not have been imposed upon the decision notice.

5. The second refusal reason concerned the impact on the living conditions of the neighbouring occupiers at 40 Greenacres Avenue. Whilst I did not support the Council's stance on loss of light, this was only one aspect of the refusal reason and I did find significant harm in relation to outlook. As a result, there were sufficient grounds for refusing planning permission related to living conditions. I am also mindful that the conclusions of the appellant's Daylight and Sunlight Assessment were balanced and involved some exercise of judgement, rather than a clear absence of harm. Accordingly, I find that the Council has not behaved unreasonably in relation to the second refusal reason.

Conclusion

6. For the reasons above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated in relation to the first refusal reason only, and that a partial award of costs is therefore justified.

Costs Order

7. 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 the Council of the London Borough of Hillingdon shall pay to Mr Ricky Markham the partial costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to the matters within the Council's first reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to the Council of the London Borough of Hillingdon, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Caines

INSPECTOR