

Costs Decision

Site visit made on 27 June 2022

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2022

Costs application in relation to Appeal Ref: APP/N5090/D/21/3284504 93 Lynton Mead, Totteridge, London N20 8DH

- 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 & Mrs Elias & Nacim Hadjikyriacou for a full award of costs against the Council of the London Borough of Barnet.
 - The appeal was against a refusal to grant prior approval for development described as a single storey rear extension to the rear of the original wall.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, 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 considers that the Council has behaved unreasonably in not determining similar cases in a similar manner, with specific regard to a development that was allowed on appeal at 125 Chase Way¹, and which also falls within the Council's administrative area. The applicant notes that this decision was not challenged and therefore the Council must accept its findings.
4. The applicant also considers that the Council's approach to consider the rear bay window as both a rear and side elevation is not consistent with the 'Permitted development rights for householders – technical guidance' (September 2019)² (the Technical Guidance).
5. I do not have the full details of the case at 125 Chase Way before me and so I cannot be sure it represents a direct comparison to indicate that the appeal proposal should have been allowed at the application stage. Indeed, standalone appeal decisions rarely set a precedent for future development because the circumstances of each proposal usually differ and they attract their own individual merits.
6. As it can be seen from my decision, the Technical Guidance was not determinative in this case, as it is guidance rather than law. The guidance does not provide an example that would represent the exact circumstances

¹ Appeal Ref. 3170532 at 125 Chase Way.

² Permitted development rights for householders – Technical Guidance, September 2019, published by the Ministry of Housing, Communities and Local Government.

of this case, and therefore an interpretation of the guidance was required. I have disagreed with the Council's interpretation in this regard and allowed the appeal, but this does not automatically indicate that unreasonable behaviour has occurred. To the contrary, it only demonstrates that the matter was open to interpretation and has quite rightly been resolved via the appeal process.

7. Accordingly, I cannot agree that the Council acted unreasonably in this case. As such, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

8. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and therefore an award of costs is not justified.

J M Tweddle

INSPECTOR