



Costs Decision

Site visit made on 22 August 2022

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2022

Appeal Ref: APP/T5150/W/22/3293875

20B College Road, London NW10 5EP

- 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 Surinder Mann for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was against the refusal of planning permission for rear dormer roof extension with extension over the outrigger, formation of roof terrace and three front rooflights to first floor flat.
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Decision

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

Reasons

2. Paragraph 30 of the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the 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's concerns relate to the conflicting communications from the Council and the delays this caused in the validation process, which led to subsequent delays in the determination of the planning application. The applicant also considers there to have been a lack of communication and co-operation from the Council in dealing with the planning application and that issues could have been dealt with through proactive engagement and/or the use of conditions. For these reasons, the applicant contends that the Council's acted unreasonably.
4. It must first be pointed out that, whilst all parties are expected to behave reasonably throughout the planning process, costs can only be awarded if unnecessary or wasted expense at appeal stage can be demonstrated. Thus, any issues or delays experienced at initial validation stage, or with respect to agreeing the description of development during the processing of the planning application, are of little relevance to this application for costs.
5. The applicant contends the Council should have engaged proactively in negotiating amendments which would have made the proposal acceptable. Indeed, Paragraph 38 of the Framework¹ encourages local planning authorities to approach decisions on proposed development in a positive and creative way. Whilst pre-application advice was not pursued by the applicant, this did not

¹ National Planning Policy Framework 2021

preclude the potential for discussion to occur between the parties during the course of the planning application's determination.

6. I note that the Council provides guidance to householders through the Residential Extensions and Alterations SPD2 (January 2018) (the SPD), which clearly states that 'dormers that project onto or over a rear projection (whether it is original or an extension to the house) will not normally be permitted'.
7. As will be seen from my decision on the planning appeal that is the subject of this application, the appeal has been dismissed on the basis of multiple identified harms, including to the character and appearance of the host property and surrounding area. Moreover, particularly when acknowledging the proposals' clear conflict with the SPD, the Council's consideration that it would not have been beneficial to seek to negotiate amendments is not without merit. It has thus not been clearly demonstrated that the Council's lack of meaningful engagement at planning application stage resulted in unnecessary expense being incurred by the applicant at appeal.
8. It was open to the Council to consider whether the scheme could be made acceptable through the use of (a) planning condition(s). However, this was a matter of planning judgement, having regard to all relevant issues. In any event, it is reasonable to consider that the changes required to make the scheme acceptable would have resulted in a materially different form of development to that applied for. I therefore find no demonstration of unreasonable behaviour in this regard.
9. For the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. I conclude therefore, that the application for an award of costs should be refused.

A Veevers

INSPECTOR