



Costs Decision

Site visit made on 22 August 2022

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

an Inspector appointed by the Secretary of State

Decision date: 7TH October 2022

Costs application in relation to Appeal Ref: APP/T5150/W/22/3291701 36A Riffel Road, London NW2 4PH

- 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 Nimesh Patel for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was against the refusal of planning permission is described as a “rear dormer window, rear dormer window with terrace to rear outrigger, two front rooflights and replacement of first floor rear window with doors and installation of balcony to first floor flat”.
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Decision

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

Reasons

2. The national Planning Practice Guidance (the Guidance) advises that costs may only 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 appeals process. The Guidance further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally, the Guidance states that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The application for costs relies to a substantial extent on the differences between a previous scheme approved by the Council (19/3755) and the current proposal. The applicant considers there is no significant difference between the two proposals. However, the Council set out the differences in a detailed paragraph of the officer report and explained the reasons and appropriate development plan policy for reaching the conclusion that the proposal would cause harm. I find that the design, materials and addition of a balcony to the rear first floor of the proposal are materially different to the 19/3755 scheme and therefore the Council did not act unreasonably in coming to this view.
4. The applicant has also expressed concerns that there are other examples of similar extensions in the area and the Council failed to assess this consideration in their decision. The circumstances in each proposal are likely to be different and the fact that apparently similar development has been constructed nearby is not a reason, on its own, to allow unacceptable development. Although other nearby development was not specifically referred to in the officer report in this regard, the Council correctly assessed the proposal on its own merits, having regard to the adopted supplementary planning guidance and the character of the area.

5. Finally, the applicant considers the Council came to an illogical conclusion on the effect of overlooking from the terrace and balcony and that the development could have been approved subject to a condition to include screening, which was offered by the applicant. In the officer report, whilst it is unfortunate that the references to 'terrace' and 'balcony' is at times unclear, the Council have clearly explained that the height of the terrace screen and balcony railing proposed would not prevent overlooking of neighbouring occupants' gardens.
6. Whilst the approved scheme included a window to one elevation, that scheme was substantially different to the proposed terrace. The Council reasonably assessed the proposal as submitted, having regard to the potential to impose conditions. I am not persuaded that unreasonable behaviour has occurred in regard this matter.
7. 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.

Ann Veevers

INSPECTOR