



Costs Decision

Site visit made on 4 October 2022

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Costs application in relation to Appeal Ref: APP/L5810/D/22/3303716 102 Shacklegate Lane, Teddington, TW11 8SH

- 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 Jed West for a full award of costs against the Council of the London Borough of Richmond Upon Thames.
 - The appeal was against the refusal of planning permission for single storey rear extension and rear outrigger roof extension. Rooflights to front elevation.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that 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 should have undertaken a site visit prior to determining the application, which would have allowed the case officer to see view the appeal site within its context. The applicant also argues that the council erroneously applied policy LP1 (Local Character and Design Quality) of the of the London Borough of Richmond Upon Thames Local Plan (2018) (LP).
4. The council have responded by stating that they had sufficient information at their disposal in the form of various photographs, satellite imagery and plans in order to make an informed decision on the application.
5. I consider the application of policy LP1 is not a policy which solely or largely applies to 'frontages', and I consider the council were correct in applying it in their assessment of the effect of the appeal proposals on the character and appearance of the area.
6. In this regard I noted that the council did, in the officer report, acknowledge the presence of other similar extensions within the vicinity of the appeal site, and I am satisfied that they assessed the appeal proposals in light of the context of the wider terrace and area.
7. I appreciate the frustration of the applicants in respect of the lengthy timescales to determination, but they would have had the ability to lodge an appeal against the failure to determine the application had they wished.

8. However, in terms of the failure of the council to upload the case officer's report in a timely manner, I am sympathetic to the applicant, who clearly had limited information to base their appeal on at the time of the submission. From the submissions made, it appears that the officer's report was unavailable until some time after the decision was published.
9. The council, in their response to the application for costs, have accepted that this was 'unfortunate' and that the 'the Council has resolved this issue by uploading the relevant report'. The Council do not state when this took place, but the applicant is clear that they had 'to advance this appeal blind' without any information about the council's detailed reasoning for their refusal.
10. Based on their response to the applicant's costs claim, I have no doubt the council would have reached the same conclusion on the application, even if they had visited the site.
11. However, it is clear to me that the appellant has been disadvantaged by having to 'second guess' the case officer's detailed analysis of the merits of the application. In my view this would have led to some confusion on the part of the appellant and therefore wasted effort.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has been demonstrated and that a full award of costs is justified.

Costs Order

13. 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 Richmond Upon Thames shall pay to Mr Jed West, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. The applicant is now invited to submit to the Council of the London Borough of Richmond Upon Thames, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Sian Griffiths

INSPECTOR