



Costs Decision

Site visit made on 9 November 2022

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

an Inspector appointed by the Secretary of State

Decision date: 16 December 2022

Costs application in relation to Appeal Ref: APP/L5810/W/22/3294461 13 Manor Road, Twickenham TW2 5DF

- 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 S Kohli, Octa Asset Management, 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 to convert the building containing 9no. flats to 4no flats (Use Class C3), car parking, extension to existing basement, two storey rear extension, replacement fenestrations at front of the property, replacement and new fenestrations to rear and rear patio.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. 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 considers that the Council behaved unreasonably in three ways: that for the first reason for refusal on living conditions (incorrectly referred to as the second reason in the applicant's claim) the Council's assessment of the proposal was reliant upon generalised, vague and inaccurate assertions and an illogical conclusion was reached on this matter; that, for the second reason for refusal (incorrectly referred to as the first in the applicant's claim) the Council should not have assessed the proposal against the Supplementary Planning Document House Extensions and External Alterations 2015 (SPD-HE); and that reference to the rear hard standing should not have been made having regard to the conclusions on this issue in the Council's officer report.
4. In respect of the first point, reasoning as to the effect of the proposal upon living conditions of occupiers of both neighbours with particular regard to privacy, light and outlook was provided in the Council's officer report. Although I have reached a different conclusion, this was based on a planning judgement where I did not reach the same conclusion in relation to the effects on the outside area to No.12 as the Council did. However, the matter was finely balanced and having regard to the proximity of the proposed development to neighbouring properties and use of their outside space, the Council did not act unreasonably in reaching the decision that it did; Consequently, the Council's decision and reasons for refusal on the first point were not unclear or

- unreasonable and reflected the findings of the officer report in a manner that was in accordance with the National Planning Policy Framework.
5. In respect of the second point, the applicant asserts that the SPD-HE specifically relates houses and not flatted development and therefore it should not have been used to assess the proposal. The SPD-HE indicates by text and illustrations that the guiding principles relate to house extensions. However, the document provides guidance only and a helpful steer as to the scale and form of an extension which the Council would consider acceptable within a residential setting.
 6. Furthermore, although the Council referred to this document and applied the rigid test to the width of the proposed two storey extension, it was not the sole justification for the Council's decision. The Council's officer report refers to the proposal as being over-dominant, destroying the original character and form of the host structure in the context of the building as a Building of Townscape Merit. Consequently, the applicant would still have been required to defend the reason for refusal against Policy LP1 and Policy LP4 of the London Borough of Richmond upon Thames Local Plan 2018 (RuTLP).
 7. On the final point, the Council's officer report is confusing. On the one hand it comments that the increased size of the hard standing would aesthetically dilute and further degrade the historic garden setting of the BTM, but then references that, whilst there would be a preference for the rear garden to be retained, in isolation, the creation of a parking area would not warrant a refusal in heritage or design terms. Nevertheless, reference to the hard standing was included within the reason for refusal.
 8. The Council, in their response to the application for costs, state that there was no 'in principle' objection to the provision of rear parking at the appeal site provided it was of a sensitive scale with appropriate landscaping, which, in their view, it was not. Although the officer report lacks detailed reasoning in this regard, the Council did set out the requirements of Policy LP4 requiring an assessment of the setting of BTM and the reasons why the proposal would dilute this setting. Therefore, the Council did not behave unreasonably in this particular respect.
 9. The PPG advises that where a local planning authority has refused a planning application for a proposal that is not in accordance with development plan policies, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. That is the scenario before me in this case, such that there is no substantive basis for an award of costs against the local planning authority.
 11. For the above reason, and having regard to all other matters raised, an award of costs is therefore not justified.

A Veevers

INSPECTOR