

Costs Decision

Site visit made on 8 December 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Costs application in relation to Appeal Ref: APP/E5330/D/22/3303325 11 Sutcliffe Road, Greenwich, Plumstead, London SE18 2NF

- 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 Ms C Davis for a full award of costs against the Royal Borough of Greenwich.
 - The appeal was against the refusal of planning permission for a ground floor side extension, alterations to ground floor rear extension, alterations to fenestration and construction of first floor rear extension.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG outlines that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. One example of such unreasonable behaviour is preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. Although it can be seen from my decision that I disagree with the Council's planning judgement and determination, it does not amount to unreasonable behaviour. The reason for refusal as set out in the Council's decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the Royal Greenwich Local Plan Core Strategy and The London Plan that the Council considered the proposal would conflict with. This reason has been adequately substantiated by the Council in its Officer Report which demonstrates how they considered the proposal would be harmful to the character and appearance of the host property and the surrounding area, including the setting of the Plumstead Common Conservation Area.
5. The applicant outlines that they were informed during the application that a favourable recommendation would be made on the proposal. In these circumstances, I acknowledge that the ultimate refusal of planning permission would aggrieve the applicant following such an indication. That said, such indications of recommendations do not bind the decision maker until their

formal decision has been issued. Senior Officers with delegated powers may take a different view to the recommendation put before them. The fact that in this case the eventual decision was not what had been indicated does not amount to unreasonable behaviour by the Council. The Council have also stated that the applicant was informed that the recommendation was indeed subject to the agreement of the delegated officer.

6. The applicant considers that they should have been given the opportunity to amend the scheme prior to its refusal. Although such opportunities can seek to overcome identified concerns, it is not always possible under the statutory timeframe for the decision maker to accommodate this, and they are under no obligation to do so. I therefore do not consider the fact that the Council did not seek amendments to the scheme amounts to unreasonable behaviour. Furthermore, whilst the applicant is of the view that such amendments would have been minor, conversely, the Council consider such amendments would have amounted to a considerable re-design. Either way, I find nothing to suggest that a decision was not reached on the basis of the planning merits of the proposal, as submitted by the applicant. I also find no substantive evidence that the applicant incurred any additional expense as a result.
7. It therefore follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated.

A M Nilsson

INSPECTOR