



Costs Decision

Site visit made on 30 January 2023

by R Gee BA (Hons) DipTP PG Dip UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Costs application in relation to Appeal Ref: APP/L5810/D/22/3300807 3 Vicarage Drive, London SW14 8RX

- The application is made under the Town and Country Planning Act 1990 (the Act), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs John and Karen Heaton 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 described as "Extending existing rear dormer to reorient it to natural light; adding windows to the first floor on the south elevation as it is currently solid and blocks natural light and sunlight; adding bay window to ground floor of south elevation to match adjacent existing bay on same elevation in order to gain access to south light to reduce reliance on artificial light/energy use".
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG states that awards may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal. This is a substantive and procedural application.
3. The applicant's cost claim states that the Council acted unreasonably in reaching the decision to refuse the application for planning permission as the size applied for was already allowed via permitted development, in not communicating design issues and that they had not properly addressed the submitted Design, Access, Planning and Heritage Statement.
4. The application is made on procedural grounds relating to the timeliness of the decision and the lack of communication.
5. The Council determined the application within the 8-week target determination period.
6. Regarding the lack of communication from the Council on design issues, although it is generally considered as best practice, there is no requirement for planning officers to engage or to give feedback to enable an application to be amended to improve its chances of success. I note that this Council offers a

pre-application advice service and their published procedures state that where pre-application has not been sought and the scheme is unacceptable a refusal issue will be sent without prior contact.

7. Given the above, the Council acted in accordance with their published procedures. Consequently, they did not act unreasonably.
8. I see no evidence of unreasonable behaviour on the part of the Council in respect of the determination period or lack of communication and co-operation.
9. In respect of the substantive complaint regarding of failure to have proper regard to documentation submitted the applicant states that the overall massing is within the limits allowed by permitted development. I note that limited further details of the fallback position were submitted by the applicant. Any certificate issued under Sections 191 or 192 of the Act would be unaffected by my determination of this appeal.
10. In respect of the claim that the Council did not properly assess the submitted Design & Access, Planning and Heritage Statement there was no requirement for its submission as part of a householder application. The report by the officer provides an analysis of the proposal giving clear reasoning for their decision. The Council has reached an alternative view on the acceptability of the scheme to the case presented to them. That is not unreasonable.
11. Further the above reasons set out above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application for an award of costs must fail.

R. Gee

INSPECTOR