



Costs Decision

Site visit made 7 February 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2023

Costs application in relation to Appeal Ref: APP/Z4310/W/22/3307945 141 Empress Road, Kensington, Liverpool L7 8SF

- 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 J Stockwell against the decision of Liverpool City Council.
 - The appeal was against the refusal of planning permission for the erection of a dormer window, ground floor and first floor extensions to the rear and installation of two rooflights to the front roof slope to an existing small house in multiple occupation (Use Class C4).
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process. The type of behaviour that can lead to a costs award includes substantive matters such as unreasonably refusing a planning application.
3. The appellant submitted that the Council has not determined similar cases consistently by failing to take account of a recently appeal allowed at 153 Empress Road¹. Although this referenced property is on the same side of Empress Road as the appeal site and there are various similarities between the appeal and this referenced scheme, the appeal allowed at No. 153 did not include a rear dormer. Reference has also been made to other developments, including at 155 Empress Road, but I do not have the full circumstances of this before me. Each decision needs to be considered on its own merits, and although I disagree with the Council, they have undertaken an assessment of the proposal in their Delegated Case Officer Report and in their subsequent Appeal Statement of Case. I do not consider the Council has acted unreasonably in this regard.
4. The appellant has stated that the Council provided factually untrue information in stating there are no other dormers on the same row of 'terraces'. It is unclear why the Council has referenced this plurally as the appeal site forms part of one terrace. From the evidence before me and my site observations, it is evident that there is another dormer on the same terrace row as the appeal property and the Council's reference to the contrary is factually inaccurate and this constitutes unreasonable behaviour. However, such unreasonable behaviour in itself does not justify an award of costs. It must also be

¹ APP/Z4310/W/21/3289497

demonstrated that such unreasonable behaviour has caused the party applying for costs to incur unnecessary or wasted expense in the appeal process, as set out in the PPG².

5. The Council has acknowledged the presence of other dormers in the vicinity of the appeal site but stated that they are not features which the Council wishes to propagate. Given this position, there is no evidence before me that they would have taken a different decision, even if the presence of the dormer on the same terrace had been correctly identified in their assessment, particularly as their concerns extended to the first floor element of the proposal. Accordingly, notwithstanding the Council's unreasonable behaviour, an appeal would still have been necessary and I do not find the unreasonable behaviour has resulted in unnecessary or wasted expense.
6. I note a number of errors by the Council referring to an outline planning application and 'the certificate', but these references were made in the Council's response to the Applicant's costs application and there is no evidence that this affected the appeal proceedings in any way.

Conclusion

7. With the above in mind, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified in this instance.

F Rafiq

INSPECTOR

² Paragraph: 032 Reference ID: 16-032-20140306