



Costs Decision

Site visit made on 12 April 2023

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Costs application in relation to Appeal Ref: APP/E5330/D/23/3317343 19A Bennett Park, Blackheath, Greenwich SE3 9RA

- 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 Julia Harrington for a full award of costs against the Royal Borough of Greenwich Council.
 - The appeal was against the refusal of planning permission for a second-floor extension and re-modelling of the front elevation including a new front door and window to the ground floor.
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Decision

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

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. Unreasonable behaviour may be procedural and/or substantive. As the main parties submitted their detailed cases in writing there is no need to repeat them in full.
4. The basis of the appellant's application for costs falls into the following areas where they feel there has been unreasonable behaviour on the part of the Royal Borough of Greenwich Council are:
 - Failure by the Council to engage positively and proactively in the planning process.
 - Failure to issue a decision notice and determine the application in a timely manner and the lack and quality of communication from the Council on this matter.

Engagement

5. The application was the subject of a pre-application enquiry, and a written response was provided by the Council setting out their concerns with regards to character, appearance and conservation issues arising from the proposal and why it could not be supported. Although the applicant made some changes to the proposal, no further pre-application advice was sought by the applicant and an application was made for planning permission. The Council subsequently

wrote to the applicant setting out their concerns relating to character, appearance and conservation.

6. In doing so, I find that the Council set out an informed and clear position relating to policy and conservation matters. I do not find that the applicant would have been under any illusions as to the Council's position with regard to the proposal and, if they so chose, could have submitted revisions or withdrawn the application at this stage. Consequently, I do not find that the decision by the Council to proceed with determining the application, without further negotiation or time extension, is unreasonable behaviour leading to unnecessary costs relating to the subsequent appeal.

Decision Notice and Communication

7. Although the Council were late in issuing a decision notice beyond the expiry date of the application, from the material submitted for the appeal and the costs application, it is clear that the applicant was aware that the application was due to be refused prior to the issuing of the formal decision notice.
8. It was therefore open to the appellant to withdraw the application or to pursue an appeal under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission. An appeal on this basis would, however, have been for the same main issues dealt with in the appeal to which this cost application relates. I find therefore that the failure to issue a decision notice beyond the expiry date of the application, or the communication of the issuing of the decision, does not constitute unreasonable behaviour leading to unnecessary costs relating to the subsequent appeal.
9. Whilst I appreciate that the outcome of the planning application will have been a disappointment to the applicant, I find that the Local Planning Authority were not unreasonable in their management of the application process, coming to their decision and issuing the decision notice, albeit outside of the expiry date of the application.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Victor Callister

INSPECTOR