
Costs Decision

Site visit made on 16 May 2023

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2023.

Costs application in relation to Appeal Ref: APP/B0230/D/22/3294282 15 Stanton Road, Luton LU4 0BH

- 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 P Surjit for a full award of costs against Luton Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of a garage and the erection of new side and rear extensions.
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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. The appellant has referred to the fallback position associated with the additions to the side and rear of the property subject the prior approval process and the planning permission which was granted. According to the appellant, the Council failed to properly take this fallback position into account in determining the appeal application and if this had occurred then the appeal may well have been avoided.
4. The Council's response is that the appellant introduced a new form of development beyond that which could be erected pursuant to the fallback position and because of the larger scheme associated with the infill extension the fallback position was irrelevant. According to the Council, the assessment undertaken by the Planning Officer clearly identifies the rationale for each of the reasons for refusing the appeal application.
5. Although there is no explicit reference to an assessment of the appeal scheme against the fallback position, there is a variation in the design of the appeal scheme which would result in a different form of development, in particular the length and siting of the flank wall adjacent to the shared boundary with 13 Stanton Road. The Council clearly identifies why there would be unacceptable harm associated with the proposed development, specifically the size of the footprint associated with the enlarged property and the effects of the appeal scheme on the living conditions of the occupiers of No. 13. These concerns have been found to be sound in the assessment of this appeal and, as such, an appeal is unlikely to have been

avoided even if there was an explicit assessment of the proposed development by the Council against the fallback position.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that a full award of costs is not justified.

D J Barnes

INSPECTOR