



Costs Decision

Site visit undertaken on 8 August 2023

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 30 August 2023.

Costs application A: in relation to Appeal Ref: APP/L5810/D/23/3324005 48 Berwyn Road, Richmond TW10 5BS

- 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 NTA Planning LLP against the decision of the London Borough of Richmond Upon Thames.
- The appeal was against the refusal of planning permission for proposed side and rear extensions.

Costs application B: in relation to Appeal Ref: APP/L5810/D/23/3324009 48 Berwyn Road, Richmond TW10 5BS

- 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 NTA Planning LLP against the decision of the London Borough of Richmond Upon Thames.
 - The appeal was against the refusal of planning permission for proposed side and rear extension.
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Decision Costs Application A:

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

Decision Costs Application B:

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

Procedural Matter

3. This letter deals with two applications for costs under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5). Whilst each of the applications are to be considered individually under these processes, as the cases are for the same site, and are similar in their nature and considerations; to avoid repetition and for the avoidance of doubt, I have dealt with each of the costs applications within this single letter.

Reasons

4. The National 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 or wasted expense in the appeal process.
5. The applicant has put forward four grounds for unreasonable behaviour in both costs decisions which are the same and relate to both procedural elements

(relating to the process) and substantive (relating to the issues arising from the merits of the appeal). I turn to the grounds below.

6. Ground 1 in both cost applications relates to allegations by the appellant as to bias by the Council in determining applications made by the appellant where the appellant feels that there is 'longstanding opposition' to the appellant's Agent where the 'conservation area status is used to unnecessarily reject applications for development.' Whilst the appellant and agent may feel aggrieved by obtaining a number of refused applications from the Council, there is no information before me that would demonstrate that the Council has behaved unreasonably in this respect. As noted in each of the appeals, all policies listed in the reason for refusal were relevant to the determination made. It was also noted in the appeals that the appellant was purely concerned with views and the public realm had therefore not applied the Conservation Area considerations correctly in accordance with policy and related guidance, or in accordance with the duty under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Conservation Area considerations were directly relevant to the consideration of the schemes, and were not simply used as an excuse to reject applications. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.
7. Ground 2 in each of the costs applications refer to issues around the Council not working with the appellant, such as offering opportunities to submit amendments to the scheme and where the appellant believes the Council have an obligation to do this and has had this occur in the past. Whilst it is good practice for a Council to seek amendments to resolve matters that are outstanding, they are under no legal obligation to seek amendments. The only legal obligation the Council are under is to make a decision on a planning application based upon the information they have in front of them which they felt that there was sufficient grounds to refuse the application. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.
8. Ground 3 in both costs applications relates to the Council requesting that the appellant engage with their pre-application service, rather than giving advice outside of the formal pre-application procedure. Given the limited resources that the Council has, it would be entirely appropriate to request that any advice given is undertaken through formal channels. It is unclear whether the appellant's objection to the pre-application advice service is with regards to the cost of such a service, timings, quality, or the formal nature of the procedure, but despite this, these grounds do not amount to unreasonable behaviour in line with the NPPG being demonstrated.
9. Ground 4 in both cost applications relates to the officer not visiting the site and undertaking the assessment of the applications utilising a desk based assessment. Whilst it is good practice to attend a site visit, this is not a legal duty or requirement. The Council need to satisfy themselves that they have enough information to adequately assess the application, and they felt that this was the case in each of the applications. Having visited the site, in my own assessment of the scheme, I have found that reasons for refusal were sufficiently justified by the Council and that the Council has not acted unreasonably in this regard in their assessment of the scheme. As such, I do

not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.

10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated in either of the costs applications. For this reason, and having regard to all other matters raised, an award for costs in both appeals is therefore not justified.

J Somers

INSPECTOR