

Costs Decision

Site visit made on 3 October 2023

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 October 2023

Costs application in relation to Appeal Ref: APP/N5660/D/23/3321617 129 Clarence Avenue, Lambeth, SW4 8LX.

- 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 Mrs Emma Fonseca for a full award of costs against the Council of the London Borough of Lambeth.
 - The appeal was against the refusal of planning permission for the demolition of existing garage and erection of new 2 storey side and rear extension.
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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. Local planning authorities are at risk of an award of costs if they prevent or delay a development which should clearly be permitted, or where they fail to produce evidence to substantiate all reasons for refusal.
3. The impact of a development on the character and appearance of an area is a matter which requires judgment and is subjective. The fact that the Council's officers reached differing views regarding the impact of and acceptability of the proposed development does not, in itself, mean that the Council acted unreasonably in refusing planning permission.
4. From the information submitted the case officer did work proactively with the appellants agent and kept them advised of the concerns raised by officers. There were delays in dealing with the application, the reason for some of the delays relate to the substitute plans, although the reasons for other delays and the failure to respond to emails is unclear. Irrespective of this, the delays and conflicting opinions did not delay a development that should clearly be permitted.
5. Having regard to the reasons stated for dismissing the Appeal, the Council was not unreasonable in refusing the application. From the Council's delegated report, it is clear that in assessing the merits of the scheme the Council clearly took into account local planning policies. They assessed the merits of the

scheme having regard to such policies and set out their reasons for refusal clearly and precisely.

6. I note that the two photomontages submitted during the processing of the application were not referred to in the Council's Decision Notice. Despite this, they were referred to in the Council's delegated report and formed an integral part of the appellant's appeal submission. Accordingly, their omission from the Council's Decision Notice did not result in any prejudice in the consideration of the appeal scheme.
7. Finally, whilst I came to a different conclusion in relation to the second reason for refusal, this did not result in the submission of an unnecessary appeal. The appellant's agents dealt with the matter succinctly in their appeal statement, although provided little evidence to demonstrate how the trees would be protected during the construction of the proposed development.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Elizabeth Lawrence

INSPECTOR