



Costs Decision

Site visit made on 14 November 2023

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21.12.2023

Costs application in relation to Appeal Ref: APP/A5270/D/23/3317191 25 Melbury Avenue, Southall, Middlesex, UB2 4HR

- 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 the Council of the London Borough of Ealing for a full award of costs against Mrs B K Chahal.
 - The appeal was against the refusal of planning permission for retention of single storey rear extension with proposed modifications to openings to rear elevation.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 on the part of an appellant includes pursuing an appeal which had no reasonable prospect of succeeding. An example given in the PPG is where the appeal follows a recent appeal decision in respect of the same development on the same site where an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period.
4. The Council submits that it only accepted the application because of the Inspector's comments in previous appeal decisions¹ which suggested that if the appellant could demonstrate conclusively that the only way to meet her needs was by extending the property, rather than within the footprint authorised by previous consents, then a new application would succeed. But for the Inspector's comments, the Council could have declined to determine the application under section 70 C of the Town and Country Planning Act 1990.
5. The Council claims that instead of demonstrating that her needs could not be met within the lawful footprint, the appellant submitted evidence, and a scheme based on the unlawful extension, which had already been considered and dismissed at the previous appeal. Thus, the appellant had behaved unreasonably.

¹ APP/A5270/W/18/3194178 and APP/A5270/C/18/3198333

6. Although it appears that much of the evidence was the same as had been previously considered during the recent appeal, new evidence was provided. Letters from Simon Levy Associates, Home Independent Services and from MV Occupational Therapy postdate the previous appeal decision. As far as I am aware, the options commented in 2 of those letters were not previously considered by either the Council or the previous Inspector. 6 of those options appear to be based on a previously consented footprint, at least with regard to the layout of rooms, if not the proposed herb garden which sat outside of the consented area. Those assessments concluded that the only layout that would meet the appellant's needs was the existing development. I disagreed with that view for the reasons set out in my decision.
7. Nonetheless, I consider the application had attempted to address the comments of the previous Inspector and, in that respect, the appellant was justified in submitting the application and appealing against the Council's decision, even though the appeal failed. I do not therefore find that the appellant behaved unreasonably in this regard.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

P D Sedgwick

INSPECTOR