



Costs Decision

Site visit made on 23 January 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2024

Costs application in relation to Appeal Ref: APP/L5810/D/23/3332069 8 Isabel Hill Close, Hampton, Richmond Upon Thames, TW12 2FE

- 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 Sam Brooks for a partial award of costs against the London Borough of Richmond Upon Thames.
 - The appeal was against the refusal of planning permission for extension and alterations to existing dwelling to include a new subterranean extension to the side, two storey extension to the rear, single storey extension to the side and associated site works and landscaping.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. The Appellant's application for costs raises a substantive point. The PPG states that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
3. The Appellant disagrees with the local planning authority's decision to refuse planning permission as they consider the appeal proposal would not result in any harm to the host property or to the Conservation Area and that the information submitted in relation to trees and protected species was acceptable and sufficient. As such, the Appellant contends that the local planning authority prevented development which should have been permitted.
4. Whilst I have found the appeal proposal to be acceptable, those findings were based on the evidence presented by the local planning authority in its Planning Report, the policies of the development plan and National Planning Policy Framework, and my own observations on site. In relation to protected species it was also based on the revised/updated ecology/bat report that accompanied the appeal.
5. The local planning authority's evidence comprised its reasons for refusal, Planning Report and relevant policy documents. These provided, in my view, a precise explanation of the local planning authority's objections to the appeal scheme. The evidence submitted was consistent with the guidance on Householder Appeals set out in the Procedural Guide – Planning Appeals –

England (updated January 2024). Paragraph 9.4.4 of this Guide states that a local planning authority's case should comprise its reasons for refusal, its report and any documents that accompany its Questionnaire. I am satisfied that the information submitted by the local planning authority enabled me to fully understand their objections.

6. In relation to the question of whether the host property was a designated Building of Townscape Merit (BTM), that required an assessment of the evidence that had been provided by both parties on this issue. Even so, as I set out in my main decision, whether the host property was a BTM or not did not affect my overall findings or the statutory requirement that special attention be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The local planning authority's case included the alleged impact on the BTM and also the wider Conservation Area
7. The impact of the proposal on the Conservation Area required an assessment of the special interests of the area, the role and importance of the host property to those interests and whether the proposal would preserve or enhance its character or appearance. Such an assessment is, in part, subjective and involves matters of judgement, on which opinions will differ. It is also a matter for the decision-maker to decide what weight should be accorded to individual considerations, documents and other relevant factors.
8. In relation to the pre-application advice, I note that the local planning authority commented on various options to extend the host property and that the appeal scheme evolved from the advice given at the time. It's not the responsibility of the local planning authority to design the scheme for the Appellant, but I do agree that the authority's advice should provide an Applicant with a reasonable idea and indication as to what might be acceptable. Even so, as the PPG advises, costs can only be awarded in relation to unnecessary or wasted expense at the appeal proceedings, although the local planning authority's behaviour at the time of the planning application can be taken into account in considering whether or not costs should be awarded.
9. As to the issue of trees, the local planning authority considered the information submitted to be insufficient. Whilst I disagreed with that finding and was satisfied that any outstanding issues could be controlled by conditions, I do not consider that the local planning authority behaved unreasonably in this respect. That was also the case in relation to protected species, which was essentially only addressed through the submission of the revised/updated ecology and bat report with the appeal.
10. I cannot agree therefore that the local planning authority has acted unreasonably in this case.
11. For the above reasons, I find that the Appellant was not put to unnecessary or wasted expense in the appeal.

Conclusion

12. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. A partial award of costs is therefore not justified.

G Roberts

INSPECTOR