



Costs Decision

Site visit made on 10 July 2024

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2024

Costs application in relation to Appeal Ref: APP/L5810/D/24/3344099 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 BHPD Limited against the decision of Richmond Upon Thames London Borough Council.
 - The appeal was against the refusal of planning permission for a side and rear extension and replacement front boundary wall and entrance gates.
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Decision

The application for an award of costs is refused.

Reasons

1. 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 expenses in the appeal process.
2. The applicant seeks a full award of costs based on both substantive and procedural matters. The concerns relate to the alleged unreasonableness of the Council in the handling of the planning application and the previous applications, and the wasted expense of appealing the decision.
3. There have been separate appeals relating to these previous applications with three including costs applications¹ which were dismissed. With reference to those costs decisions, the issues raised here echo those previous applications, including; the failure to communicate during the application process, reliance on the paid pre-application process, and failure to undertake a site visit. There is no evidence before me which leads me to take a different view to that of the previous Inspectors on the principles of these issues.
4. In accordance with the Town and Country Planning Act 1990 when an application is made the Council are to determine that application. While I understand the applicant's frustrations with the planning process, the Council is not required to directly communicate prior to any decision, nor negotiate during the application process. The correspondence from the Council as part of the validation process and the decision provided details of their approach and the pre-application services, which as a discretionary procedure they may charge for. Additionally, there is no indication that a minor amendment or any

¹ APP/L5810/D/23/3331723, APP/L5810/D/23/3324005 and APP/L5810/D/23/3324009

clarification of information would have made the proposal acceptable to the Council.

5. As the previous costs decisions explain, while it is good practice there is no statutory duty or requirement to undertake a site visit and the Council considered that they had sufficient alternative resources to enable the application to be assessed.
6. Through the various planning applications, which have associated officer reports, the applicant has details of the Council's position and references to the pertinent policies and guidance. The applicant also utilised the pre-application service and was advised that a full-width rear extension should not be pursued.
7. While I have taken a different view from that of the Council and allowed the proposed development, for the reasons set out in the main decision, that is my judgement based on the proposal before me. The applicant's costs application does not refer to any specific evidence to support the suggestion that the Council are using the Conservation Area status to unnecessarily reject development. The weight to be given to other considerations, including the potential benefits of a scheme, is a matter for the decision maker. Moreover, I am satisfied that the Council substantiated its reason for refusal, and the decision reflected the pre-application advice provided. I therefore do not find that the Council has acted unreasonably.
8. As set out in the PPG an award can only be made when both tests are met. The costs incurred by the applicant in pursuing the appeal were the normal costs arising when the right of appeal is exercised. Thus, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and the application for costs is refused.

G Ellis

INSPECTOR