



Costs Decision

Site visit made on 2 July 2024

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2024

Costs application in relation to Appeal Ref. APP/Q5300/D/24/3341549 Land at 23 Kynaston Road, Enfield EN2 0DA

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Brian Cade for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was made against the refusal of planning permission for *Single storey side and rear extension with lean-to roof*.
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Costs decision

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

Reasons for the cost's decision

2. The Government's Planning Practice Guidance (the Guidance) advises that all parties in appeals are expected to behave reasonably to support an efficient and timely process and that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. This application for costs has been considered on its merits in the light of the cost's advice found within the Guidance, the appeal papers, the costs correspondence and all the relevant circumstances relating to the planning application and the appeal. The parties are also referred to my appeal decision.
4. The Council has not responded to the cost's application. This application for an award of costs is made on a substantive basis, relating to the planning merits of the appeal.
5. If the appointed planning officer had not visited the site, as implied in the cost's application, I would expect this to be acknowledged in the officer's report. The officer's report does not mention this matter. In the alternative, the site may already have been very familiar to officers who considered application ref. 23/02802/HOU shortly before application ref. 24/00161/HOU was submitted. Importantly in this regard, the descriptions of nos 21, 23 and 25 given in the delegated report, including the position of windows to the rear, are accurate.
6. The decision was not rushed when viewed against the guidance in the National Planning Policy Framework that decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing. There is no clear evidence that a different decision would have been reached, had the Council taken more time.

7. The Council's objections to the proposed extension related to the impact on the amenities of the neighbouring property at 25 Kynaston Road. The effect of a proposal on living conditions is a broadly subjective matter, involving planning judgement. The officer's report was supported by various planning facts with reference being made to relevant development plan policies. Having found that the scheme did not comply with the development plan, the Council was entitled to reach the decision it did. Despite disagreeing with the Council in my decision on the appeal about the impact on no. 25, there was nothing inherently unreasonable with the Council's assessment of this matter. It adequately substantiated the relevant reason for refusal. Its reasoning on that matter did not lack substance or objectivity.
8. The appellant claims that there was a clear cut precedent for the grant of planning permission at the application stage, obviating the need for this appeal, as there was no material difference between the subject proposal and the various schemes that had already been permitted along Kynaston Road. These included an appeal decision at no. 41 which was referenced in the officers' reports relating to the subsequent decisions made by the Council to grant planning permissions at nos 13 and 27.
9. Although not specifically highlighted by the appellant, the Guidance indicates that if Councils do not determine similar cases in a consistent manner, they may be at risk of a substantive award being made against them. However, this relevant planning history was not, of itself, critical to my decision in this case. I determined the appeal on the basis of the evidence before me and my own site observations and my interpretation of planning policy which differed from the previous Inspector's approach somewhat. I clearly identified 2 separate walls forming the original rear wall of this terraced property so the Council could not be criticised for highlighting the depth of the extension from the "recessed rear wall" of no. 25 when it exceeded the 3 m limit by such a wide margin. I acknowledged this depth in my appeal decision but I found other factors which, in combination, pointed to a favourable outcome for the appellant.
10. The Council's approach to the available facts did not therefore fully match any of the types of behaviour listed in the Guidance that may give rise to a substantive award against a local planning authority. There is no substantive basis for an award of costs against the local planning authority.
11. This application for costs falls short of demonstrating that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has occurred. A full award of costs is not justified.

Andrew Dale

INSPECTOR