



Costs Decision

Site visit made on 24 February 2025

by **T Bennett BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28th February 2025

Costs application in relation to Appeal Ref: APP/M5450/D/24/3351441 43 Bromefield, Stanmore, Harrow HA7 1AG

- 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 & Mrs Amrisha & Kunal Varsani for a full award of costs against the Council of the London Borough of Harrow
 - The application Ref is PL/1762/24
 - The appeal was against single storey rear extension: 5.00 metres deep, 3.50 metres maximum height and 3.00 metres high to the eaves.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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 or wasted expense in the appeal process.
3. The applicants case for an award of costs centres on their assertion that the local planning authority (LPA) failed to pass on information regarding neighbouring objections and so had no opportunity to amend the proposed scheme and that the LPA did not undertake a site visit to ascertain the site context, failing to carry out any due diligence.
4. The Council accept that they failed to notify the applicant of the objection that had been received. Whilst this is not considered to be good practice, I have not been referred to anything in the order that would require the Council to share this information. Furthermore, applications under prior approval are required to be determined within a set timescale. Any amended plans would require re-consultation and potentially prejudice the timescale in which they have to be determined in. The Council gave due consideration to the comments within the officer report and the applicant has had the opportunity to comment on these submissions during the appeal process. Whilst the Councils failure to notify the applicant of the objection is not without criticism, this behaviour did not cause the applicant to incur any wasted or unnecessary costs in pursuing the appeal.
5. Turning to the second issue, whilst the numerous errors in the officer report could reasonably lead the applicant to conclude that the LPA did not undertake a site visit, the LPA have provided time-stamped photographic evidence that they did undertake a site visit in order to assess the impact of the proposed development. I

have no reason to consider that it did not take place and therefore they did carry out due diligence.

6. Whilst the officer report stated the flank elevation kitchen window is a 'protected' window, they have, in their costs rebuttal, confirmed this was an error and that the flank kitchen window of No 45 would have likely been below the 13sqm threshold, and therefore not a protected room. However, the officer's report does not solely focus on the impacts of the extension from the flank kitchen window, but also considers the impact of the proposal from the rear elevation.
7. The Council also acknowledges there was a typographical error in stating that the proposed extension would be sited east of No 45, when it would actually be sited to the north. Whilst the relationship of the proposal to No 45 would have a bearing on the level of overshadowing that would be caused by the proposed development, the officer report also considered that the proposal would have a detrimental impact on outlook, thus it was not the sole reason for refusal.
8. I note the officer report states the proposal would be sited immediately adjacent to the common boundary. The Council states that this is correct, as they did not say the proposal would be attached to the common boundary. However, my understanding of the phrase 'immediately adjacent', suggests that the proposed development is to be built directly next to the boundary, which is not the case. However, the wording used by the officer in describing the relationship with the boundary to No 45, differs from their assessment with No 41, where they state the extension would be sited on the common boundary. Therefore, although I consider that the wording used in describing the boundary relationship with No 45 was not entirely accurate, I consider the officer did understand where the proposal would be sited. Ultimately, the officer's conclusions come down to a planning judgement formed following their site visit. Whilst I have not come to the same conclusions as the Council, it does not mean they were incorrect in coming to their overall view.
9. The applicant, believing the officer did not conduct a site visit, has referred to a prior approval scheme at 11 The Chase (No 11). That application is not comparable to the appeal scheme. The Council have confirmed no objections were received during the consultation period for the prior approval scheme at No 11. Under the GPDO regulations, when no adjoining premises object to the proposed development, the prior approval of the LPA is not required, and the Council does not need to assess the impact of the proposal on the amenity of adjoining premises.

Conclusion

10. Given my findings above, I consider that the applicant's time and expense in defending the appeal were a necessary part of the process. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated. Therefore, the application for an award of costs is refused.

T Bennett

INSPECTOR