

Costs Decision

Site visit made on 24 July 2017

by K R Saward Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 August 2017

Costs application in relation to Appeal Ref: APP/R5510/D/17/3176155 2 Linksway, Northwood HA6 2XB

- 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 K Vhora for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against the refusal of planning permission described as "proposed retention of extensions and alterations to property, further to those approved under application 36910/APP/2015/621."
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Decision

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

Reasons

2. The application is made with reference to Circular 03/2009. However, this Circular was withdrawn in March 2014 and replaced with the Planning Practice Guidance (PPG). I have considered the arguments presented by the appellant in the context of the PPG.
3. Paragraph 030 of the *Appeals* section of the 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.
4. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. The appellant's submissions do not indicate any conduct on the Council's part which might be considered as a procedural failing. The arguments raised are on substantive grounds relating to the planning merits.
5. The appellant considers that the Council has acted unreasonably through inconsistency in its decision-making and there being insufficient grounds to refuse planning permission given similarities in proportions to neighbouring properties.
6. Whilst the list is not exhaustive, the PPG contains examples of the type of behaviour that may give rise to a substantive award against a local planning authority. These include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. It could also be vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by an objective analysis. Another example given in the PPG

where a Council may be vulnerable to costs is not determining similar cases in a consistent manner.

7. The background to the appeal is relevant. Planning permission had previously been granted for three schemes, two of which involved large extensions and alterations to the dwelling. Neither of these two permissions granted in 2015 contained a condition requiring any glazing to be obscured glazed. Having built an extension with the same rear building line as one of these permissions (ref: 36010/APP/2105/621), the appellant considers it inconsistent and unreasonable for the Council to have objected on the ground of loss of privacy and amenity to a neighbouring occupier.
8. However, what the appellant built did not accord with any previously approved scheme. The development did not benefit from planning permission and the application was retrospective in nature. The Council has submitted floor plans and elevational drawings to highlight the differences between the schemes previously approved and that for which planning permission has now been sought.
9. There were significant differences in the schemes resulting from internal reconfiguration. Most notably, first floor windows were altered and enlarged and rear facing roof dormers which were for a bathroom and storage area were changed to serve a bedroom. Circumstances had changed and the scheme fell to be considered afresh. There is nothing to indicate that the Council failed to have regard to the earlier permissions in arriving at its decision. Just because the Council did not require obscured glazing previously does not mean that an altered scheme without it must be acceptable.
10. It took a judgement on the planning merits. I have disagreed with that view in finding in favour of the appeal, subject to the imposition of conditions to protect privacy, but a contrary view was capable of being taken without amounting to unreasonableness.
11. Similarly, the Council's concern over the gap above the first floor windows to the eaves being uncharacteristic of the road was not an indefensible position to take. Bearing in mind that the appeal site is located within an Area of Special Local Character the Council would have been anxious to ensure that any defining characteristics are preserved. There are many examples in Linksway of the first floor windows being immediately beneath the eaves. I have been more swayed by the number that do not. In the same way, the roof to wall proportions is capable of being argued either way. They are both matters of planning judgement. The decisions taken did not fall outside the bounds of reasonableness.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

KR Seward

INSPECTOR