



Costs Decision

Site visit made on 9 June 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2020

Costs application in relation to Appeal Ref: APP/G4240/D/20/3244243 94 Granada Road, Denton M34 2LA

- 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 Steven Wynne for a full award of costs against Tameside Metropolitan Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for a single storey rear extension and two storey side extension.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (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.
3. The application for costs in this case was made by the applicant against the Council on two grounds, firstly in relation to a procedural matter, and secondly in respect of the substance of the appeal.

The Procedural Claim

4. Paragraph 047 of the PPG¹ indicates that local planning authorities will be at risk of an award being made against them for reasons including lack of co-operation with the other party or parties, or a delay in providing information or other failure to adhere to deadlines.
5. The applicant has provided e-mails relating to the planning application, and claims that the Council failed to respond or cooperate in respect of the issues raised. It is also claimed that the Council also failed to adhere to deadlines to determine the application. For its part, the Council indicates that they responded to the e-mails by telephone, and that the delay in reaching a decision arose from amendments they had suggested to the appellant which could have led to a grant of planning permission.
6. The evidence before me from both parties on this element of the claim is limited, and so does not demonstrate either that the Council failed or refused

¹ Reference ID: 16-047-20140306

to cooperate with the applicant, or that the failure to adhere to deadlines in respect of the planning application amounted to unreasonable behaviour.

The Substantive Claim

7. Paragraph 049 of the PPG² indicates that local planning authorities will be at risk of a substantive costs award being made against them for, among other things, not determining similar cases in a consistent manner.
8. The planning application to which the appeal decision relates was refused for one reason, relating to the proposal's effect on the character and appearance of the street scene. It is the applicant's case that the Council did not have sufficient regard to its decisions in respect of several similar extensions to the proposed development in this case, including at 92 Granada Road opposite the appeal site, as well as at Nos 100 and 102.
9. For the reasons set out in my main decision, I accepted the applicant's arguments that these other extensions have helped to define the character and appearance of the area. I therefore found that the proposed extension would complement the prevailing character and appearance of the area, and concluded that the appeal should be allowed, although this in itself does not indicate unreasonable behaviour on the part of the Council.
10. The Council acknowledged that there are examples of two-storey side extensions on corner plots in the locality and went on to state that 'such examples serve to highlight how harmful such extensions can be to the locality'. However, the type or extent of harm which the Council consider to be caused by those other examples was not described, quantified or otherwise explained. Their role in defining the character of the street scene was not otherwise acknowledged in the Council's delegated officer report.
11. I have not been provided with full information of the circumstances in which the other extensions were granted planning permission. However, that at No 100 was approved in 2017³ and, while not identical to the proposal before me, in the key matters of scale, appearance and its relationship with its side street, in that case Melton Avenue, the two schemes are in my view almost as alike as could be. I have not been provided with the Council's delegated officer report for the 2017 permission, but an earlier report in respect of a similar 2015 planning permission at No 100⁴ indicated that an extension could be 'adequately accommodated within the side garden area of the property without there being any adverse impact on the general street scene or character of the area'. The similar proposals for No 94 and No 100 were appraised against the same 2004 Tameside Unitary Development Plan and the same 2010 Residential Design Supplementary Planning Document (the SPD), but the Council came to very different conclusions about their effects.
12. In response, the Council indicates that it is concerned that the further approval of such two-storey side extensions on corner plots will ultimately erode the ability of the SPD to restrict such extensions. To my mind there is no reason why this should necessarily be so, although this should be on the basis of the effects and merits of individual cases, rather than an 'in principle' objection to such development which its choice of words perhaps suggests. It has also

² Reference ID: 16-049-20140306

³ Tameside Planning Application Reference 16/01155/FUL

⁴ Tameside Planning Application Reference 15/00693/FUL

brought to my attention a dismissed appeal relating to a side extension of a corner plot property⁵. However, while I do not know the full details of that proposal, from the information before me it relates to an extension of a very different appearance to its modern detached host property, in an area of a different character, some distance from Granada Road. Other than that it relates to a corner plot there appear to be few similarities between that case and the appeal at 94 Granada Road. That decision therefore adds little weight to the Council's arguments in this case.

13. Having seen a planning application for a similar proposal approved three doors along the street in 2017, in the circumstances I consider that the applicant should have had a reasonable expectation that his proposal would have been treated similarly. The application was refused and the other side extensions, including that permitted in 2017, which form part of the character of the area immediately around the appeal site were dismissed as harmful without further explanation. In my view the Council clearly took an inconsistent approach to determining very similar proposals in very close proximity to one another and within a relatively short period of time. This amounts to unreasonable behaviour.
14. As a consequence of this unreasonable behaviour the applicant has incurred unnecessary expense in preparing the grounds of appeal. Had the planning application been determined consistently with other applications in the immediate vicinity, notably those at No 100 Granada Road, it is unlikely that the appeal would have been necessary.

Conclusion

15. On the basis of the information before me I find no unreasonable behaviour in respect of the procedural element of the claim. However, for the reasons set out above I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is therefore justified.

Costs Order

16. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Tameside Metropolitan Borough Council shall pay to Mr Steven Wynne, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
17. The applicant is now invited to submit to Tameside Metropolitan Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Cryan

Inspector

⁵ Appeal Ref: APP/G4240/D/18/3203387