
Costs Decision

Site visit made on 23 September 2016

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 27 September 2016

**Costs application in relation to Appeal Ref: APP/T3725/D/16/3157068
10 Meadow Close, Off Epsom Road, Leamington Spa, Warwickshire CV32
7AS**

- 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 and Mrs Tekin/Samlye Moustafa for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of planning permission for the erection of a first floor extension.
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Decision

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

Reasons

2. 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 expense in the appeal process.
3. The reason for refusal, which refers to effect of the proposal on the character and appearance of the property and the wider street scene, is precise, specific and relevant, with a clear reference to a relevant development plan policy, the Council's Residential Design Guide and the National Planning Policy Framework. The Officer's report elucidates that reason. It substantiates the Council's case with realistic, objective and specific evidence about the consequences of the proposal if it were to proceed. This evidence provides a reasonable basis for the Council's stance.
4. The decision to refuse planning permission was not taken lightly. It followed a meeting with the applicants held on 4 April 2016 that in turn prompted the submission of a revised drawing. At that time, the ridge height of the new first floor extension was lowered with the front dormers replaced by roof lights and the proposed front gable removed. However, no change was made to the position of the new extension forward of the main front wall of No 10, which the Council considered to be objectionable. From the evidence, the Council's position on this aspect of the scheme appears to have been consistent.
5. Pre-application advice was also given to the applicants in relation to the need to provide a bat survey, which was subsequently provided. Subject to the

imposition of a suitable condition, the Council's Ecological Assistant found the proposal to be acceptable, which is a reasonable approach to take.

6. The Officer's report briefly summarises the planning history of the site. It does not specifically consider the relevance of the most recent planning permission for extensions at the property granted in 1996; whether or not it had been implemented; or the extent to which the approved scheme did or did not establish a fall back position for the applicants. Nevertheless, as the 1996 scheme significantly differed in its design and predated current planning policy, the change in circumstances in the interim was significant. As such, the Council was not necessarily bound by its previous decision even if that earlier permission had been implemented as the applicants state. Furthermore, each proposal should be assessed on its own planning merits.
7. The application forms record that the Council advised the applicants at the pre submission stage that planning permission would be required for the proposal. There is nothing before me to indicate that that advice was incorrect in the light of its previous decision to grant permission for a different scheme in 1996. As such, I am not persuaded that the applicants were misled into submitting a fresh application as a consequence.
8. Overall, the Council has not prevented or delayed development that should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated. Accordingly, the application is refused.

Gary Deane

INSPECTOR