The Planning Inspectorate

Costs Decision

Site visit made on 3 January 2017

by Chris Couper BA (Hons) DiP TP MRTPI

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

Decision date: 10th January 2017

Costs application in relation to Appeal Ref: APP/T3725/D/16/3163764
Croft Cottage, 165 Bakers Lane, Knowle, West Midlands B93 8PR

- 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 Vincent for a full award of costs against Warwick District Council.
- The appeal was against the refusal of planning permission for the demolition of the existing garages and the erection of a new garage; and a single storey extension.

Decision

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

Reasons

2. In his costs application the applicant refers to Circular 03/2009. However, that Circular was withdrawn in March 2014 and replaced by the Planning Practice Guidance ('Guidance'). I have therefore had no regard to it in my decision.

3. The Guidance advises that all parties in appeals should normally meet their own expenses. However, it continues 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. At ID 16-20140306 paragraphs 046 to 050 the Guidance sets out when an award of costs may be made against a local planning authority. That includes a non-exhaustive list of procedural and substantive matters. Examples of unreasonable behaviour 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; and inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

5. The applicant maintains that the Council's decision was without policy justification, that its approach in assessing the application was flawed, and that the reason for refusal was not substantiated. That led to the wasted expense of an unnecessary appeal.

6. However, for my part, applying paragraph 89 of the National Planning Policy Framework ('Framework'), which was referred to in the Council's decision and its delegated report, I do not consider that the Council's approach in considering the impact of the proposed extension and the proposed garage separately was flawed. Although I have reached a different conclusion from the Council on whether the proposed extension would constitute a disproportionate addition, that is largely because I have taken as my starting point in the appeal the size of the replacement dwelling, not the original size of the dwelling that it replaced.

7. Nevertheless, given that the essential characteristics of Green Belts as defined at paragraph 79 of the Framework are their openness and their permanence, and given the Council's understandable concerns regarding the cumulative impact of development on the Green Belt, I do not find its approach wholly unreasonable. In the absence of any detailed definition of disproportionate additions in the Framework, it understandably referred in its delegated report to floorspace guidelines in Warwick District Local Plan 1996-2011 policy RAP2. That report made reference to the incremental increase in the amount of development on the site and adequately substantiated the Council's reason for refusing planning permission.

8. Summing up, although I have reached a different conclusion from the Council on the merits of the proposal and whether or not it would be inappropriate development in the Green Belt, I do not agree with the applicant that the decision was without any justification or foundation. For those reasons I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated, and that an award of costs is not justified.

Chris Couper

INSPECTOR