
Costs Decision

Site visit made on 19 December 2016

by Grahame Gould BA MPhil 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/C1760/D/16/3161650 7 Knyght Close, Romsey SO51 5UX

- 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 Alex Baker for a full award of costs against Test Valley Borough Council.
 - The appeal was against the refusal of planning permission for a single storey front extension and a part two storey and a part single 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 has been made on a substantive basis. The applicant contends that the Council acted unreasonably in refusing planning permission because when Members of its Planning Committee determined the planning application they disregarded the officer recommendation and their deliberations did not justify the refusal of planning permission.
 4. The Council's case relies wholly on the reason for refusal, which I consider is expressed in vague terms, with the committee minute that has been submitted not elaborating on the alleged harm identified by the Members of the Planning Committee. While Members of the Planning Committee are not bound by their officers' recommendation, their reasons for refusal, especially when making decisions that are contrary to an officer recommendation, need to clearly substantiate why a development would be harmful.
 5. The reason for refusal alleges that the side extension would be 'incongruous' and would fail to integrate with, respect or complement the character and appearance of 7 Knyght Close (No 7) or the area. However, because of No 7's position within Knyght Close only oblique and/or distant views of the side extension would be possible within this street and consequently, in determining the appeal, I have found that this addition would not be an incongruous one.
 6. The appealed application was the third made by the applicant and it is clear from the officer's report that the size and design of the side extension had
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been subject to amendment, with those revisions being the product of an iterative process, culminating in the favourable officer recommendation. It appears that the Members of the Planning Committee paid very limited regard to either the contextual information relating to the location and design of the side extension contained in the officer report or the professional assessment that gave rise to the recommendation that planning permission should be granted.

7. I have concluded that in the absence of harm to the character and appearance of either No 7 or Knyght Close that there would be no conflict with the Test Valley Borough Revised Local Plan of 2016. The Council's decision has not stood up to scrutiny on the planning merits of the case and the development should reasonably have been permitted. The refusal of planning permission therefore amounted to unreasonable behaviour, contrary to the guidance in paragraph 49 of the PPG, in that the Council has failed to produce evidence to substantiate the reason for refusal and in so doing prevented development that would accord with the development plan and that should have been permitted.
8. I therefore 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 justified.

Costs Order

9. 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 Test Valley Borough Council shall pay Mr Alex Baker, the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to Test Valley 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Grahame Gould

INSPECTOR