

Costs Decision

Site visit made on 29 March 2017

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 5 April 2017

**Costs application in relation to Appeal Ref: APP/A3655/D/17/3167489
Land at 30 Oak Tree Road, Knaphill, Woking, Surrey, GU21 2SB.**

- 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 Richard Osbourne for a full award of costs against Woking Borough Council.
 - The appeal was against the refusal of planning permission for a single storey rear extension and a first floor rear/side extension over an existing ground floor extension/garage.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. Local planning authorities are at risk of a procedural award of costs where they demonstrate a lack of co-operation with the other party or fail to adhere to deadlines. Local planning authorities are at risk of a substantive award of costs against them if they prevent or delay development which should clearly be permitted; where they do not determine similar cases in a consistent manner; or where a more helpful approach would probably have resulted in either the appeal being avoided, or the issues considered being narrowed.
3. In this instance during an exchange of emails the Council's case officer proactively advised the Appellant's agent of his concerns regarding the scheme initially submitted and the revisions made to it. He set out his specific concerns clearly, with reference to national and local planning policies and design, as well as addressing existing extensions referred to by the Appellant's agent. The officer also suggested an alternative approach which he felt could be designed to accommodate the Appellants needs. During the exchange of emails both parties acknowledged that matters of design can be subjective and in an email dated 26 October 2016 the Appellant's agent stated that it was a matter that could be explored further at Appeal.
4. On 10 November 2016 the Council's case officer emailed the Appellant's agent, confirming that the application could only be determined by the Planning

Committee if specifically requested by an elected member of the Council. He also stated that he would have the application determined as soon as possible due to the lack of agreement reached between the parties regarding the design of the proposed extension.

5. Whilst the Appellant's agent states that a local Ward Member was happy to "call in" the application, it would appear that no such request was made. The Ward Member would have been aware of the need to make any such request quickly and in good time before the meeting on 15 November 2016. This is to enable the application to be included in the Committee agenda report, which would have been made publicly available some time before the Committee meeting.
6. When the case officer emailed the Appellant's agent on 10 November 2016 he would have been fully aware that the application could not have been considered at the 15 November Committee meeting because no "call in" requests had been made by any elected members of the Council. The case officer will also have been aware from the Appellant's agents email dated 10 November that the Appellant was looking for the application to be determined by 29 November 2016.
7. In view of the above it was reasonable for the council to determine the application quickly at that point. A quick decision would prevent any delay for the Appellant in lodging their Appeal and would ensure the application was determined within the Council's target date.
8. Finally, the relationship between the Appeal property and the dwelling at 45 Oak Tree Road is clearly visible from the street scene. As such there was no need for the case officer to discuss the proposal with the occupiers of No.45 before reaching a planning judgement on the impact of the proposal on the living conditions of any existing or future occupiers of No.45.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Elizabeth Lawrence

INSPECTOR