
Costs Decision

Site visit made on 15 May 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 13th June 2017

Costs application in relation to Appeal Ref: APP/W0340/D/17/3172110 Noakes Hill Cottage, Noakes Hill, Ashamstead, Reading RG8 8RY

- 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 Mrs M Calvert for a full award of costs against West Berkshire Council.
 - The appeal was against the refusal of planning permission for the removal of existing outbuilding and the erection of a detached annex and extension to existing store; with associated hard and soft landscaping.
-

Decision

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

Reasons

2. Paragraph 030 of the Appeals section of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. A substantive award is sought on the basis that there were no reasonable grounds for refusal of the application.
 3. The applicant asserts that the Council has acted unreasonably in that it has caused an appeal to have been made when in fact development ought to have been approved. For substantive matters, the PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Importantly, any unnecessary costs identified must relate to the appeal process.
 4. It is alleged that insufficient evidence has been submitted to substantiate each of the two reasons for refusal and that in coming to its decision, the Council made vague, generalised and inaccurate assertions about the proposal's impact, which are unsupported by any objective assessment.
 5. The Council rejects such allegations relying on the case officer's assessment and the clear evidence in the form of detailed drawings supplied by the applicant's architect. Simply, the Council consider that the scale etc. of the proposal would be detrimental to the established character of the area. Both reasons of refusal related to issues of character and appearance and involve a reasonable degree of inter-twining.
-

6. As can be gleaned from my appeal decision, I found that the size of the proposed new annex was acceptable in the context of a well screened site that offered further landscaping opportunities. The Council sought to introduce a mathematical calculation that was based on the premise that the increase in size of floorspace (168%) related to the increase over the existing outbuilding rather than a percentage increase of the host dwelling Noakes Hill Cottage, which in the applicant's view would have been the correct approach as verified by the officer report when it was stated "SPG guidance indicates that extensions in the countryside should seek to be approximately 50% increase in floorspace...". However, the Council's main approach was that the net increase in size of the new building by comparison with what was proposed to be removed amounted to a substantial increase. I do not believe this calculation and the resulting view were unreasonable.
7. The source for this calculation was however difficult to ascertain given that the evidence submitted by the Council was in the form of a 2006 Supplementary Planning Document – Quality Design that appeared to have little relevance to the appeal proposal. The appellant did however refer to the correct document, a SPG that has only recently been superseded along with Saved Local Plan policies following the recent adoption of new policies of the West Berkshire Housing Site Allocations DPD.
8. However, design considerations are often subjective; the Council was entitled to take the view it did and did not necessarily have to undertake any complex assessment as the likely impact was localised. Whilst the Council's assessment of the application did include some simple and broad assertions of harm, the applicant did not produce any substantial evidence of her own, such as for instance, a landscape impact assessment. For my part, I simply considered the proposal against local and national policies having regard to what I found on site. There was no substantial weight of evidence from either party and a balanced decision in favour was reached based on my findings as set out in the appeal decision. This was somewhat different to the costs decision at an appeal¹ that was drawn to my attention by the applicant where the appellant produced substantial evidence to counter the claims of the Council.
9. In conclusion, although I can understand the applicant's frustration having produced a worthy scheme that also responded to objections raised by the Council to an earlier proposal, I find that on the substantive grounds, the Council did not act unreasonably.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated.

Gareth W Thomas

INSPECTOR

¹ APP/W0340/A/13/2195524