
Costs Decision

Site visit made on 8 November 2017

by J Gilbert MA (Hons) MTP MRTPI

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

Decision date: 5 December 2017

**Costs application in relation to Appeal Ref: APP/X0415/D/17/3180528
26 Berkeley Avenue, Chesham, Buckinghamshire HP5 2RW.**

- 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 Ms Lythgoe for a full award of costs against Chiltern District Council.
 - The appeal was against the refusal of planning permission for front porch/first floor side extension over garage/extend hipped roof incorporating side + rear dormers.
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Decision

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

Procedural Matter

2. The costs application was made by Ms Lythgoe and Mr Martin, although only Ms Lythgoe was named on the appeal form and is therefore named above in the heading of this decision. I have not sought to clarify Mr Martin's involvement with the appeal as it does not affect my findings in relation to this costs application.

Reasons

3. The national Planning Practice Guidance (PPG) advises in paragraphs 29 and 30 that, irrespective of the outcome of the appeal, costs may only 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. According to paragraph 31 of the PPG, unreasonable behaviour in the context of an application for an award of costs may be either procedural in relation to the process; or substantive in relation to the issues arising from the merits of the appeal.
5. The applicant submitted that the Council has acted unreasonably with regard to this appeal on two main grounds. Firstly, the applicant considered that the Councillors at the Council's Planning Committee introduced new reasons for refusal which were not previously considered to be of concern in relation to the previous appeal¹ and that the officer's report did not allude to these concerns when making their assessment. Secondly, the applicant argued that the Council did not consider the type and style of extensions within the immediate vicinity

¹ APP/X0415/D/16/3159291, decision issued 16 November 2016.

of the appeal site, where there are a number of examples of two-storey side extensions, first floor extensions, and side dormer window extensions. The applicant asserted that the appeal has caused unnecessary expense in appointing an agent to act on her behalf.

6. Taking these substantive issues in turn, I note the recommendation of the Council's officer and the content of their report. However, the decision is one which is a matter of judgment based on the specific scheme before the Council. The members of the Planning Committee in this case were entitled not to accept the professional advice of officers so long as a case could be made for the contrary view. The application before them was different to the scheme considered under the previous appeal. The members of the Planning Committee visited the site and provided 2 reasons for refusal which clearly demonstrated on planning grounds why they considered the proposed development unacceptable. The reasons for refusal are complete, precise, specific and relevant to the application. As such, even though I have allowed the appeal, I consider that the Council provided a reasonable basis for its position.
7. With regard to the applicant's second ground for costs, the officer's report recommended approval, having considered the application on its own merits. It was not therefore necessary for the officer to have referred to the numerous extensions within the surrounding area. Furthermore, as the members of the Planning Committee visited the site, they would have been aware of the character and appearance of the surrounding area in making their decision. I find that the members of the Planning Committee had sufficient information before them with regard to the character and appearance of the area to make an informed and reasonable decision.

Conclusion

8. I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award for costs is therefore refused.

J Gilbert

INSPECTOR