

Costs Decision

Site visit made on 19 February 2018

by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2018.

Costs application in relation to Appeal Ref: APP/H1840/D/17/3189089 10 Vallenders Road, Bredon GL20 7HL

- 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 Nicholas Bradley for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission for ground and first floor extensions, to include internal and external modifications.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is made on the basis that the applicant believes the decision was fundamentally flawed and inconsistent with other decisions made by the Council. The applicant also raises concerns about the decision making process including in respect of amendments sought and the post application engagement.
4. The PPG indicates that local planning authorities will be at risk of an award of costs against them if permission is refused on planning grounds capable of being dealt with by conditions, where they do not determine similar cases in a consistent manner, and if they prevent or delay development which should clearly have been permitted.
5. In view of the decision I have reached on the appeal, I cannot conclude that the Council's decision was fundamentally flawed or that it misapplied policy. It also follows that this is not a case where the Council has prevented development which should have clearly been permitted.
6. I have noted the concerns in respect of the decision making process. It is not unusual that senior members of staff are involved in a decision even where they have not visited the site. I have no evidence that what took place was inappropriate or fundamentally flawed. Although I have not agreed with all of the Council's concerns, I have nevertheless reached the view that aspects of the proposal would result in harmful overlooking.
7. It is not unusual for a planning officer to suggest amendments to either attempt to secure a solution that would enable planning permission to be

granted or to narrow the scope of the concerns. The latter can be effective in minimising any issues at appeal or focusing further correspondence. Because I have not been provided with all the various iterations of the drawings it is not possible to have a full picture as to what the purpose of each amendment was. Regardless of this, any additional costs in respect of revised drawings at the application stage are not a cost related to this appeal and so they would be beyond the scope of a costs claim.

8. The applicant has highlighted a number of proposals where the Council has granted consent. However, for the reasons I have set out in the appeal decision, none of these are directly comparable to the appeal scheme and so this is not a case where the Council has been inconsistent.
9. In the appeal decision I have concluded that part of the Council's concerns could have been overcome by the provision of an additional screen, which could have been secured by a condition. However, conditions could not overcome all of the overlooking without fully enclosing the balcony, which would be inappropriate and tree planting would take time to establish and their permanent retention could not be ensured. As such the use of conditions could not have overcome the refusal reason in its entirety.
10. Post application contact can avoid an appeal. The applicant asserts that the Council has refused to engage with him about the proposal. However, the submitted evidence (email correspondence dated 16 October 2017 and the Council's response dated 24 October 2017) does not demonstrate that this was the case. There is nothing within the Council's email to suggest it would not provide advice on a revised scheme or continue a dialogue.
11. Paragraph 187 of the Framework encourages local planning authorities to engage positively with applicants and look for solutions. The overarching aim of the Framework is to secure sustainable development; this is expressly referenced in paragraph 187 and so the requirements within it must be understood in this context. Sustainable development includes the need for a proposal to provide a good standard of amenity for existing occupants of land and buildings. For the reasons I have set out in the appeal decision the development would not achieve this. The advice in paragraph 187 does not mean that all applications should be approved and the submitted evidence does not show that the Council has refused to engage with the applicant.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

K Taylor

INSPECTOR