
Costs Decision

Site visit made on 15 July 2019

by Andrew Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 31 July 2019

Costs application in relation to Appeal Ref: APP/C1760/W/18/3217933 Adanac, Old Stockbridge Road, Over Wallop SO20 8LB

- 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 Nicola Rawnsdon for a full award of costs against Test Valley Borough Council.
 - The appeal was against the refusal of planning permission for the construction of one self-build, single storey, 3 bedroom dwelling, incorporating landscape enhancement works.
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Decision

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

Reasons

2. The Planning Practice Guidance¹ advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense.
3. The applicant submits that the Council has acted unreasonably by failing to properly take into account the advice of its Design Review Panel (DRP); that her request for information about the committee process and various requests in relation to the DRP were ignored; and that insufficient weight was given to other material considerations.
4. The DRP was tasked with assessing the proposal in the context of the fourth bullet point of paragraph 55 of the 2012 National Planning Policy Framework (2012 Framework). I have reviewed the comments of the DRP dated 3 July 2018. Whilst they are very positive, less favourable comments were made in relation to the rear façade. The DRP did not conclude that the proposal was innovative, however for the proposal to have the potential to succeed under paragraph 55 of the 2012 Framework it would need to be either innovative or truly outstanding. With regard to whether the proposal would be truly outstanding, the DRP advised that more work was needed on the rear façade, to ensure that it fitted firmly into this category. It is therefore reasonable to conclude that the DRP did not take the view that the proposal would be either innovative or truly outstanding. The Council's assessment of this matter, as set out in its officer report accords with the DRP advice.

¹ Planning Practice Guidance Paragraph 030 Reference ID: 16-030-20140306

5. However, the DRP made no adverse comments in relation to the other three parts of the final part of paragraph 55 of the 2012 Framework. The Council is of course free to take a contrary view to consultee advice, and advice from the DRP would appear to be of an advisory nature; however, a contrary view would have to be substantiated. The Council raises concerns about the future maintenance of the building's stone surface, with concern over the potential for dirt to collect, creating an environment for plants to establish. This follows advice from a landscape consultee, who concludes that the proposal, while offering some landscape benefits, would not significantly enhance its immediate setting, as required by paragraph 55 of the 2012 Framework. I do not find that the Council's conclusion on this matter is contrary to the findings of the DRP. The DRP state that the proposal has to contribute to its immediate environment but does not conclude that it would offer significant enhancement. I therefore find that the Council has not acted unreasonably in respect of its assessment of the scheme in light of the comments of the DRP.
6. The matters the applicant has raised regarding the committee process and her view that requests in relation to the DRP process were ignored are largely related to Council procedure. There is no evidence before me to suggest that the Council would have reached a different decision had the application been determined by a planning committee, or that the DRP advice would have been different if extra presentation time had been given or an agenda had been provided. I am therefore of the view that the Council did not act unreasonably in this respect.
7. I am satisfied that the development plan policy, the revised National Planning Policy Framework (2019 Framework) and the self-build nature of the proposal were considered adequately within the Council's officer report. The Council gave significant weight to its settlement hierarchy, which is reasonable as it is an important strategic policy that was fundamental to its consideration of the proposal. The officer report shows however that this was balanced against other material considerations, including a detailed assessment against paragraph 55 of the 2012 Framework.
8. The applicant also refers to the Council's failure to consider the scheme as previously developed land. However, as an existing garden the site would not appear to accord with the definition of previously developed land set out in either the 2012 Framework or the 2019 Framework.
9. The applicant is also of the view that the Council did not consider the positive impact of the proposal on the vitality of the existing settlement, or the applicant's attachment to the area and desire to live close to her parents. I accept that such matters do not appear to have been considered by the Council, however there were numerous factors that the Council found to weigh against the proposal and matters of attachment to the area and the vitality of the settlement were considered to carry little weight in the appeal decision. Therefore, had the Council considered these matters I am satisfied that it would not have resulted in a different outcome.

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Andrew Tucker

INSPECTOR