
Costs Decision

Site visit made on 23 July 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2019

Costs application in relation to Appeal Ref: APP/R0335/W/19/3225138 1 The Green, Bracknell RG12 7BG

- 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 and Mrs Chopra for a full award of costs against Bracknell Forest Borough Council.
 - The appeal was against the refusal of planning permission for sub-division of existing house to form two self-contained dwellings, 2 storey side extension and part 2 storey, part single storey rear extension.
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Decision

1. The application for an award of costs is partially allowed, in the terms set out below.

Reasons

2. Planning Practice Guidance advises 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 expense in the appeal process.
3. The applicants consider that the Council failed to properly substantiate its reasons for refusing planning permission, which they consider are not supported by relevant policies and guidance and are contrary to specialist advice. I first note that the Council's Planning Committee was entitled to come to a different decision to that recommended to them by its officers. This would not be unreasonable, provided that the conclusions drawn were properly substantiated.
4. The first reason for refusal is focussed upon alleged harm to the character and appearance of the Easthampstead Conservation Area (the Conservation Area) and to the visual amenities of the area as a whole. I accept that the Council's Historic Buildings section, in their role as a specialist internal consultee, stated no objection noting that the works would primarily be confined to the rear of the site. I also note that the area surrounding the appeal site is made up of a variety of terraces, semi-detached and detached houses.
5. However, it is apparent that the proposal involves the addition of built elements that would, in-part, be visible from public vantage points and would in their totality be of notable size and scale. Indeed, they would allow for a previously extended semi-detached dwelling to be sub-divided into 2 dwellings. Whilst it is my understanding that the previous extensions were constructed prior to the Conservation Area's designation, the appeal building would have

originally been proportioned in line with its neighbouring attached property and other semi-detached residential properties in The Green. I am thus satisfied that the Council's position that the proposal would have an adverse effect upon the character and appearance of The Green was adequately reasoned and substantiated. This is notwithstanding the conclusions reached with respect to the planning appeal to which this costs application relates. I am content that the Council acted reasonably in applying its first reason for refusing planning permission which I note specifically refers to the size and scale of the proposed extensions and to relevant development plan policies.

6. The second reason for refusal refers to increased traffic movements having an adverse impact on access and highway safety. The Highway Authority raised no objection and noted that a nominal traffic impact would be expected. Indeed, the proposal would result in the creation of merely a single additional dwelling and existing on-site parking arrangements would be extended and upgraded to cater for this. I accept that comings and goings are generated by the adjacent veterinary practice and doctor's surgery and that on-street parking occurs in the vicinity of the site. It has not however been clearly or adequately reasoned why these existing site circumstances would lead to the proposal causing harm in a highway safety context. The Council therefore behaved unreasonably in applying its second reason for refusal, causing unnecessary expense in the appeal process.
7. With respect to its third reason for refusal, the Council withdrew this during the appeal process upon receipt of a legal agreement securing avoidance and mitigation measures with respect to the Thames Basin Heaths Special Protection Area. I am satisfied that the Council behaved reasonably with respect to this matter.

Conclusion

8. I therefore conclude that a partial award of costs, to cover the expense incurred by the appellant in contesting the Council's second reason for refusing planning permission is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Bracknell Forest Borough Council shall pay to Mr and Mrs Chopra the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the Council's second reason for refusal, which alleges that the proposal would have an adverse impact on access and highway safety.
10. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Andrew Smith

INSPECTOR