



Costs Decision

Site visit made on 26 June 2019 by C Brennan BAE (Hons) M.PLAN

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2019

Costs application in relation to Appeal Ref: APP/D1590/W/19/3226185 112 The Fairway, Leigh-on-Sea SS9 4QS

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Joe Albert for a full award of costs against Southend-on-Sea Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for a detached chalet bungalow
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Decision

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

Application Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the application.

Reasons for the Recommendation

3. The Planning Practice Guidance ("PPG") advises in paragraphs 29 and 30 that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably where this has directly caused another party to incur unnecessary or wasted expense in the appeal process. Paragraph 49 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.
 4. The Development Control Committee refused the application against the recommendation of the Council's planning officers. The appellant states that Committee failed to understand the proposal and that its assertions, that the proposal would be excessively bulky, incongruous and obtrusive to the detriment of the character and appearance of the surrounding area, were vague, inaccurate and unsupported by objective analysis. The refusal of the application resulted in the appellant seeking professional advice to lodge an appeal, which they consider as an unnecessary cost which they have incurred.
 5. As can be seen in my decision, I have come to a different conclusion to that of the Committee and consider that the proposal would not cause harm to the character and appearance of the area. However, while I disagree with the Committee's decision, I do not find that the Committee acted unreasonably as the half-hipped roof of the proposal is indeed larger and bulkier than that of the previous scheme allowed at appeal (Ref APP/D1590/W/15/3133851). While I
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disagree with their decision, I understand how the Committee may have arrived at this decision and so do not consider that they behaved unreasonably.

6. Contrary to the assertions of the appellant, I am not convinced that the Committee misunderstood the proposal, nor do I consider that the Committee's determination on the proposal was vague or inaccurate given the precise wording contained within the reason for refusal and expanded upon in the Council's Statement of case.
7. I have found that the Council had reasonable concerns about the impact of the proposal and justified its decision. Although I have reached a different judgment on the planning merits of the case, this does not mean that the Council acted unreasonably in refusing the proposal. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

Conclusion

8. For the reasons given above and having had regard to all other matters raised, I recommend that the application for a full award of costs should be refused.

C Brennan

APPEAL PLANNING OFFICER

Inspector's Decision

9. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for costs is refused.

Andrew Owen

INSPECTOR