
Costs Decision

Site visit made on 15 October 2019 by Scott Britnell MSc FdA

Decision by R C Kirby BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd January 2020

Costs application in relation to Appeal APP/W0340/W/19/3234841

Clairewood, Hampstead Norreys Road, Hermitage, Thatcham, RG18 9RZ

- 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 & Ms Andrew and Catherine Balcam and Balson for a full award of costs against West Berkshire Council.
 - The appeal was against the refusal of planning permission described as, "This application is for the demolition of the existing single storey dwelling and garage and its replacement with two semi-detached dwellings. Included within the proposals are works to lift and thin the crown of TPO within the garden."
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Decision

1. The application for 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 advises that costs may 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. There are effectively two parts to the application for costs. Firstly, that the Council behaved unreasonably in preventing or delaying development which should clearly be permitted and that it made vague, generalised or inaccurate assertions about the proposal's impact, which was unsupported by any objective analysis.
5. Although the officer's recommendation to the Eastern Area Planning Committee was that planning permission be granted for the new dwellings, members are entitled to make a judgement based upon their own consideration of a development proposal. In this case, it appears that this was made following consideration of a detailed officer report setting out the main issues, representations made and relevant development plan policies. The Committee also undertook a visit to the site where the members would have been able to make their own assessment of the impact of the proposal. Whilst the decision to refuse the application was based on the chairman's casting vote, this is not a demonstration of unreasonable behaviour.

6. Although I recommended that the appeal be allowed, the decision making process that the Council undertook does not demonstrate unreasonable behaviour. Matters such as a proposal's impact on the character and appearance of an area is largely a subjective matter, and in this case I am satisfied that the Council substantiated its concern about the proposal setting out, amongst other matters, the relationship of the new dwelling to its neighbours, in terms of its height and its appearance and effect on the character and appearance of the area. Vague, inaccurate, generalised or inaccurate assertions about the proposal's impact, unsupported by any objective analysis as asserted by the applicants were not made by the Council.
7. I also note the applicants concern that matters other than height were included in the refusal reason. Matters such as scale, mass, bulk and design logically flow from an assessment of a building's height. Their inclusion within the refusal reason is not therefore unreasonable, and the time and effort expended by the applicants in responding to these issues was a necessary part of their case.
8. I find that the refusal reason was clear and unambiguous. It is clear what the Council's concerns were in respect of the proposal. The harm attributed to the proposal is set out concisely in the penultimate paragraph of the decision notice with the final paragraph indicating the relevant policies and guidance against which the harm was adjudged. This provides a clear link between the reasons for refusal and the quoted policies. Although certain policies were referenced within the decision notice which were not referenced in the officer report, the applicants were well aware that the Council considered that these policies were relevant to the case because of their inclusion in the refusal notice. They have not therefore been disadvantaged in this regard and unreasonable behaviour on behalf of the Council has not been demonstrated.
9. In light of the above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Conclusion and Recommendation

10. For the reasons given above, I recommend that the application for costs should be refused.

Scott Britnell

APPEAL PLANNING OFFICER

Inspector's Decision

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

RC Kirby

INSPECTOR