



Costs Decision

Site visit made on 26 November 2019

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd January 2020

Costs application in relation to Appeal Ref: APP/T1410/W/19/3236485 8 Chiswick Place, Eastbourne, BN21 4NH

- 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 Orest Gjika for a full award of costs against Eastbourne Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of existing single storey garage and construction of two-storey house within the existing site boundary walls.
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Decision

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

Reasons

2. Paragraph 030 of the Government's Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in the consideration of whether or not costs should be awarded.
3. The application for a full award of costs is made following the refusal of planning permission for the demolition of existing single storey garage and construction of two-storey house within the existing site boundary walls.
4. The applicant has not explained in what way the applicant considers the Council was inconsistent in the way it dealt with the application. I note that the Council has previously refused to grant planning permission for development on the appeal site, both for reasons that included the effect of the development on the character and appearance of the Town Centre and Seafront Conservation Area. Although, from the evidence before me, the proposal before me differs from these previously refused proposals and I have found it to be acceptable, this does not necessarily indicate that the Council has been inconsistent in its approach. I therefore find that the Council has not acted unreasonably in its handling of the application in this respect.
5. The applicant's appeal statement indicates that over three months elapsed between the request for pre-application advice and a formal acknowledgement of that request, which I consider to be an unreasonable delay. However, a response from the Council was received after two months and the Council did

offer a pre-application meeting. Accordingly, I do not find the Council's behaviour overall in this respect to be unreasonable. Even if I had, the applicant has not demonstrated that the delay in arranging the meeting has led to any additional costs being incurred in the appeal process.

6. The applicant maintains that had the pre-application advice been consistent the cost of making the planning application could have been avoided. However, from the evidence before me, one pre-application meeting was held which was the only source of pre-application advice. Although the applicant considers the discussions at the meeting to have been positive, the only evidence I have of those discussions is the email from the Council's Planning Consultant to the applicant's architect of 11 June 2019. From this it is apparent that the Council had concerns with the pre-application proposal. Nevertheless, the applicant decided to submit the planning application. Even if I was to accept the applicant's contention on this point, costs can only be awarded in respect of costs necessarily and reasonably incurred in the appeal process, not for the costs of the planning application.
7. The emails between the Council's Planning Consultant and the applicant's architect submitted as part of the applicant's appeal evidence confirm some discussion following the submission of the planning application regarding materials and a minor amendment to the drawings to achieve consistency. However, the email from the Council dated 24 July 2019 identifies the broad conclusion of the refusals of the previous applications that, in the Council's opinion, the site is unsuitable in principle for a new dwelling.
8. The Council had identified the need to take the issues with the previous refusals into account in its email of 11 June 2019. I therefore consider that the Council did not act unreasonably in raising this objection to the principle of the development during the course of the determination of the application. Even if I did consider it unreasonable, I have no evidence that it led to any additional costs being incurred in the appeal process.
9. Although the applicant was willing to discuss the Council's concerns further, with such a fundamental objection in principle I consider it improbable that any further discussion would have overcome the Council's concerns and resulted in the granting of permission. I therefore consider that the Council did not act unreasonably in refusing to discuss it further.
10. Following the refusal of the application and in full knowledge of the Council's concerns, it was the applicant's decision to submit an appeal. Parties in planning appeals are normally expected to meet their own expenses.

Conclusion

11. I therefore find, for the reasons given above, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated in this appeal.
12. The application for the award of costs is therefore refused.

Martin Small

INSPECTOR