
Costs Decision

Site visit made on 2 January 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2020

Costs application in relation to Appeal Ref: APP/J0350/W/19/3238528 31 Walpole Road, Slough SL1 6AU

- 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 Paul Hughes for a full award of costs against Slough Borough Council.
 - The appeal was against the refusal of planning permission for proposed new chalet bungalow to be built within the large garden of existing bungalow.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) 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 or wasted expense in the appeal process.
3. The appellant considers that concerns could have been raised at an earlier stage, that some were not raised in previous applications and that there have been inconsistencies in the handling of the application subject to this appeal. Previous applications and pre-application discussions were some years ago, prior to and outside of the appeal process or that of the application subject of it. I do not have full details of the relevant policies and other material considerations at those times. Informal advice given before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all material factors.
4. PPG indicates that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. The application was with the Council for some time before making their decision. Whether staffing matters contributed to this or not, I understand the sense of frustration which delays, and the management of the application might have caused the appellant with regard to the consideration of the scheme by different Council officers. This includes from the indication of a potential granting of planning permission.
5. Nonetheless, while not to the appellant's satisfaction, from the evidence before me there appears to have been some dialogue between the parties during the course of the application. This includes providing advice along with seeking to resolve certain issues and addressing potential conditions. Matters relating to

- the Freedom of Information request to the Council are beyond the scope of this appeal.
6. The Council seeking and providing details or making comments more quickly may have resulted in an earlier decision and appeal. Nonetheless, from the information before me, there is no compelling evidence that this would have led to permission being granted and thereby avoiding the need for the appeal. Although the Council may have indicated that the scheme was to be recommended for approval, their decision was ultimately to refuse the application. The Council have maintained their opposition to all refusal reasons during the appeal process.
 7. The appellant states that the appeal was unnecessary as the proposal complies with the development plan and there were material considerations, such as national policy, that the Council failed to take account of when reaching its decision. The Council have provided reasons for their decision and I find nothing to suggest that a decision was reached based on factors other than the planning merits of the proposal.
 8. I have not agreed with the Council's concerns in regard to some of the main issues. Notwithstanding this, I have found harm arising from the scheme and dismissed the appeal. Therefore, from the information before me, even if there was earlier interaction and the application determined sooner, this would not have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed.
 9. Costs can be awarded where a Council has not determined similar cases in a consistent manner. Planning permission was granted for a property in the garden of 32 Walpole Road. As with the appeal proposal, the scheme was for a single dwelling in the garden of a corner plot in the same street. Nevertheless, the orientation and access of the appeal scheme is different to that at 32 Walpole Road. That scheme is materially different to the appeal before me and therefore does not indicate that the Council have been inconsistent.
 10. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case in a way that has put the applicant to unnecessary or wasted expense.

Conclusion

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

Stuart Willis

INSPECTOR