



Costs Decision

Site visit made on 10 March 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Costs application in relation to Appeal Ref: APP/L1765/D/19/3242735 2 Greenacres, Andover Road, Winchester SO22 6BZ

- 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 Gary McCulloch for a full award of costs against Winchester City Council.
 - The appeal was against the refusal of planning permission for a loft conversion and extension with rear dormer and front rooflights.
-

Decision

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

Procedural Matter

2. The costs application submitted by the Applicant does not expressly state whether a full or partial award of costs is sought. However, by reason of the information contained within the costs application, I have interpreted the application as being as an application for a full award of costs, and I have considered the costs application on that basis.

Reasons

3. Planning Practice Guidance (the 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 expense in the appeal process. Parties in planning appeals and other planning proceedings normally meet their own expenses.
4. The Applicant considers that the Council acted unreasonably in that they provided what the Applicant maintains was incorrect information that the site was visible from the public realm, and that the Council failed to properly assess the proposal by maintaining that the proposed dormer would be larger in scale than that which could be constructed under certain permitted development rights.
5. With regards to the first of these issues, it will be seen from my decision that I found that glimpsed views of the appeal site could be obtained from within the wider surrounding area and specifically within Bereweek Road. Whilst the appeal site is somewhat screened from views, the consistent and uniform appearance of the roofs of the appeal property and its immediate neighbours, are visible from within the public realm. I therefore find that the Council has not acted unreasonably with regards to its contention that the site is visible from within the surrounding area.

6. On the second of these issues, whilst I acknowledge that the overall volume of a dormer which could be constructed under permitted development rights would be more than the overall volume of the proposed dormer, the appeal scheme would nonetheless be wider as indicated within the Council Officer's report.
7. As will be seen from my decision, the distinction between the relative sizes of the proposed dormer when compared to that of a dormer which could be constructed under permitted development rights, forms part of the consideration of the relative harms that may arise from the proposal when compared to the fallback position. In this regard, I have considered the width, height and volume of the proposed dormer and have found that the appeal proposal would be less harmful to the character and appearance of the host building and less harmful to the character and appearance of the surrounding area, when compared to the legitimate fallback position.
8. Whilst I have come to a different conclusion to that of the Council with regards to the relative impact and harm that would arise from the proposal when compared to the fallback position, it is not the case that the Council failed to recognise the potential fallback position exists or failed to consider the weight which should, in their belief, be attached to the fallback position. I therefore do not find that the Council has acted unreasonably with regards to its assessment of the proposal or in respect of the whether the proposal would be larger than that which could be constructed under permitted development.
9. For the reasons above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application for a full award of costs is refused.

A Spencer-Peet

INSPECTOR