
Costs Decision

Site visit made on 12 August 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21st August 2020

Costs application in relation to Appeal Ref: APP/R0660/D/20/3250146 Wayside, Hough Lane, Alderley Edge SK9 7JE

- 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 Mrs Laura Earnshaw for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for a 2 storey side extension to the existing residential property.
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Decision

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

Reasons

2. The *Planning Practice Guide* (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals, and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process.
3. The application for an award of costs is made on substantive grounds. It is alleged that the reasons for refusal are generalised and inaccurate, that the delegated report was largely unchanged from a previous application for a larger extension and that the Council did not act proactively with the applicant as required by the *National Planning Policy Framework*.
4. The application had two reasons for refusal. The first relating to the proposal being inappropriate development in the Green Belt and the other relating to the impact of the proposal on the character and appearance of the property and the surrounding area. These both relate to the proposed extension and deal with issues that need to be addressed in considering the appeal scheme. They clearly set out the development plan policies to which the Council considered the scheme would be contrary and are sufficiently detailed to give a clear explanation of why the Council considered that the proposal was contrary to them. As such, they are not vague or generalised.
5. It is highlighted that the first reason for refusal says extensions rather than extension. Whilst this is unfortunate, it does not affect the substance of the reason for refusal in any way and the delegated report describes the scheme accurately. Nor has this error, or the reference to encroaching into the countryside, resulted in any wasted expense for the applicant in the appeal process.

6. As detailed in my appeal decision, I have found that the proposal would not be a disproportionate addition and would be acceptable in terms of its impact on the character and appearance of the area. However, I recognise that in matters such as character and appearance, and whether or not an extension is disproportionate, consideration of planning applications and appeals can involve matters that are finely balanced and primarily a matter of professional judgement.
7. The delegated report sets out clear reasoning for why they consider the proposal to be a disproportionate addition, and why the Council consider the scale and mass of the proposal would harm the character and appearance of the host property and the area. Whilst the applicant may not agree with the Council's conclusion in this respect, and I have come to a different conclusion from the authority, this does not mean that the Council have behaved unreasonably.
8. I understand that prior to the submission of the application which is the subject of this appeal, an application had been refused for a larger side extension on the property. Although I have not seen the delegated report for the previous scheme, given that both schemes were for similar proposals to the same property, I do not consider it would not be unsurprising if the delegated reports for both applications are similar as they need to address the same fundamental issues.
9. I appreciate the comments made by the applicant on how the Council worked with herself during the application process. However, from the reasons for refusal and the Council's evidence, it is clear that they had fundamental objections to the appeal scheme and that minor changes to the scheme would not have been sufficient to make it acceptable. Thus, whilst I accept that the applicant may not agree with the Council's approach to these matters, given the nature of their objections to this proposal, I do not consider that they have acted unreasonably in not giving additional time for amended proposals to be submitted. Moreover, it is not the role of the Council to set out how the scheme could be redesigned to make it acceptable.
10. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

Alison Partington

INSPECTOR