
Costs Decision

Site visit made on 22 September 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2020

Costs application in relation to Appeal Ref: APP/J1535/D/20/3255048 2 High Silver, Loughton IG10 4EL

- 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 James Berlin for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for development described as 'change of decking shape to rear garden – levels are as per previous approved application EPF/3242/17'.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. The application needs to clearly demonstrate that this is the case, as parties in planning appeals normally meet their own expenses.
3. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes both procedural and substantive matters, such as preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national planning policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; and, vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by an objective analysis
4. The crux of the applicant's costs claim is that the Council did not undertake a thorough comparison of the appeal scheme and the previous approved application¹. The applicant states that the fallback position would be more harmful to No 1 High Silver and adjacent properties.
5. The Council's officer report and decision notice clearly set out the reasons for its decision and identify the relevant development plan policies. The officer report refers to the 'fallback position' and I am satisfied that it had regard to all relevant considerations. Whilst I have found that the decking has not caused significant harm to the living conditions of the occupiers of neighbouring

¹ EPF/3242/17.

properties, this is a matter of planning judgement and I find that the Council has adequately substantiated its decision.

6. Taking the above into account, I conclude that it has not been demonstrated that the Council behaved unreasonably or that it caused unnecessary or wasted expense for the applicant in the appeal process as a result.

Conclusion

7. For the reasons given above, I determine that the costs application should fail and no award is made.

C Osgathorp

INSPECTOR