



Costs Decision

Site visit made on 4 September 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2020

Costs application in relation to Appeal Ref: APP/Y3615/D/20/3251550 17 Warwicks Bench, Guildford GU1 3SZ

- 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 & Mrs Lanzenby for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of planning permission for a single storey side and rear extension with roof garden over following demolition of existing garage.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the 'PPG') advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant submits that the Council has acted unreasonably on two grounds. The first ground for costs is made on the basis that the Council have failed to substantiate their concerns by relying on vague, generalised and inaccurate assertions about the proposal's impact which is unsupported by any objective analysis.
4. The second ground for costs is made on the basis that the Council have failed to properly exercise their development management responsibilities by failing to engage with the applicant at the planning application stage in relation to their concerns about the effect of the proposed development on existing trees.

Objective reasoning and analysis

5. The applicant criticises the Council's officer report and cites several areas of disagreement. However, these points relate to matters of planning judgement, where the Council are entitled to take a different view to that of the applicant.
6. In determining the appeal, I agreed with the Council's assessment in respect of the effect of the development upon the character and appearance of the area and the effect of the development upon the living conditions of the occupiers of No 15D Warwicks Bench in respect of privacy. Therefore, I cannot agree that the Council has relied upon vague, generalised or inaccurate assertions about the proposal's impact with regard to these main issues.

7. In terms of the wider examples referred to by the applicant, as set out within my Decision, the developments do not contribute directly to the distinctive characteristics of the local area. Moreover, the examples of good design shown within the Council's Residential Extensions and Alterations Supplementary Planning Document (2018) (the 'SPD') are not directly comparable to the proposal. Consequently, the other developments and the SPD advice do not indicate that the Council should have granted planning permission.
8. I recognise that my findings were different to the Council's assessment in so far as I found that the proposal would not cause significant harm to the living conditions of the occupiers of No 15D Warwicks Bench in respect of daylight and sunlight and outlook and the occupiers of Grantley House in respect of privacy. Nevertheless, the Council's reason for refusal was substantiated by an objective analysis of the effect of the proposed development upon the living conditions of neighbouring occupiers.
9. Indeed, the officer's report compares the existing site levels to the proposed levels, as shown on the submitted section drawing. Moreover, the Council's concerns in respect of the effect of the proposed development upon the living conditions of Grantley House are substantiated by an objective analysis of the existing situation and proposed development.
10. I recognise that there is a dispute between the parties about the height of the privacy screening on the southern boundary. However, this results from a different approach between the parties in relation to how the ground level of the fence has been calculated. A difference in approach, in and of itself, does not represent unreasonable behaviour.
11. For the reasons given, I conclude that the Council have not acted unreasonably by undertaking an objective analysis, and that the applicant has not been put to wasted time and expense.

Development management responsibilities

12. The applicant submits that the Council's concerns in relation to the effect of the development on trees the subject of a Tree Preservation Order could have been overcome through the submission of additional information at validation stage or during the application process.
13. The evidence before me does not suggest that the applicant engaged in any pre-application discussions with the Council, and, thus the Council would have had no prior knowledge of the scheme before submission. In addition, the Council explain that the need for an arboricultural statement had been identified following the Council's site visit, and, therefore such information was not requested at validation stage.
14. Whilst the submission of arboricultural information during the application process may have overcome the Council's third reason for refusal, the Council had fundamental concerns about the proposal and concluded the proposed development would conflict with several development plan policies. Therefore, I find that it was not necessary at that time for the Council to request additional arboricultural information, the submission of which would have not altered the outcome of the planning application.

15. For this reason, whilst I understand that the applicant feels aggrieved that the Council did not afford them the opportunity to submit additional information, I am not persuaded that the Council's actions were unreasonable.

Conclusion

16. For the collective reasons outlined above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

Christopher Miell

INSPECTOR