
Costs Decision

Site visit made on 29 October 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2020

Costs application in relation to Appeal Ref: APP/G1630/D/20/3246948 19 Whitefields Road, Bishops Cleeve, Cheltenham GL52 8RR

- 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 Cooper for a full award of costs against Tewkesbury Borough Council.
 - The appeal was against the refusal of planning permission for a two storey rear extension.
-

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. PPG also provides examples of unreasonable behaviour by local planning authorities which include the failure to produce evidence to substantiate reasons for refusal and vague, generalised or inaccurate assertions unsupported by objective analysis as well as preventing or delaying development that should have been permitted.
4. The applicant considers that the Council based their assessment of the scheme on the objections received, that the appeal was unnecessary as the proposal complies with the development plan and that the Council failed to take account of relevant considerations when reaching its decision.
5. An objective analysis of the relevant matters is required. Nevertheless, there is no design guide regarding separation distances and therefore such an assessment will inevitably involve an element of subjectivity and be a matter of judgement. That there is disagreement between those involved is not uncommon and does not imply unreasonableness.
6. The Council have provided a reasoned justification as to how they reached their decision and related their decision to planning policies. I find nothing to suggest that a decision was reached based on factors other than the planning merits of the proposal. Moreover, the refusal reasons did not relate to every property that objected to the scheme.

7. I have not agreed with all the Council's concerns and the refusal reason does not relate to character and appearance. However, having visited the appeal site and several adjacent properties, I have found harm arising from the scheme, that would be greater than the fallback position and dismissed the appeal.
8. From the information before me, while not to the applicant's satisfaction, there appears to have been some engagement between the parties. In any event, even if there was greater interaction, there is no clear evidence that this would have resulted in the appeal being avoided. While reference is made to determining similar cases in a consistent manner, no specific planning applications or appeals have been highlighted.
9. 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

10. 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