
Costs Decision

Site visit made on 18 August 2020

by **J P Longmuir BA (Hons) DipUD MRTPI**

Decision date: 3rd November 2020

Costs application in relation to Appeal Ref: APP/J0350/W/20/3251809 Garage to the rear of 1 Alexandra Road, Slough SL1 2NQ

- 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 Messrs Emil and Paul Gaynor for a full award of costs against Slough Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the demolition of the existing garage to the rear of Alexandra Road and replacement with 3 no. flats spread over 2 storeys.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that 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.
3. The applicants were expecting a positive outcome having had discussions with the case officer, however there were different opinions amongst officers leading to their eventual objection. The Council was also prolonged in their consideration of the application. The applicants also note that the Council did not determine the application and suggest that the Council have relied upon vague and generalised statements and did not give sufficient consideration to the merits of the proposal in the planning balance.
4. The application did take a long time in consideration. However, it is evident that there were ongoing discussions with the case officer and also feedback from various consultees. This led to some changes to the scheme which overcame some of the Council's concerns. These changes may well have led to a better scheme. I therefore conclude that the time was not wasted.
5. There was clearly a difference of opinions of officers. However, the particular issues of character and appearance and living conditions are matters of judgement rather than an exact science. Indeed, the proposed flats being 'backland' development made these considerations more critical as emphasized by the reference to backland in Local Plan policy H13.

6. Similarly, the various policies give generalised criteria which the decision maker must relate to the particular site and proposal. The assessment of the policies in such a case is not an automatic conclusion but rather a balance of the merits and impacts. They are open to interpretation which is widely acknowledged as a matter for the reader.
7. The Council did not determine the application, but nonetheless did produce an appeal statement. This stated the issues of concerns, and moreover described which particular elements of the proposal were harmful and to which particular neighbouring residents. This was helpful. Their statement also explained the context of their concerns and articulated the impacts. The appropriate planning policies were interpreted, and the housing land supply implications led to their referencing with the National Planning Policy Framework. Their case was rational.
8. The living conditions did involve an assessment of the impact of 3 windows, and balcony from which the extent of overlooking was a critical judgement. I have found that the Council was justified in its concern.

Conclusion

9. For the above reasons I conclude that the Council has not acted unreasonably, and that the applicant has not been put to wasted time and expense in pursuing the appeal. Therefore, an award of costs as described in the Planning Practice Guidance is not justified.

John Longmuir

INSPECTOR