
Costs Decision

Site visit made on 5 January 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 march 2021

Costs application in relation to Appeal Ref: APP/N1730/D/20/3259713 35A Basingbourne Road, Fleet GU52 6TG

- 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 Neil Weston for a full award of costs against Hart District Council.
 - The appeal was against the refusal of planning permission for erection of single storey front and rear extensions, raising of roof, insertion of two dormer windows to front, two dormer windows to rear and a window to each side to facilitate the conversion of the roof space to habitable accommodation, conversion into habitable accommodation following demolition and enlargement of existing double garage, alterations to fenestration.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking a full award of costs on substantive grounds.
4. The Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a substantive award of costs include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and refusing planning permission on a planning ground capable of being dealt with by conditions.
5. As the appeal relates to householder development, the Council's reasons for refusal and Delegated Report comprise the basis of the Council's case. I find

- that refusal reasons 1 and 2 as set out in the decision notice are complete, precise, specific and relevant to the application and that they clearly state which development plan policies the proposal would be in conflict with. I find they have been adequately substantiated within the Delegated Report, which includes an acknowledgement of the range of different dwelling types within the site vicinity and refers to a condition attached to the original planning permission restricting the property to a single storey building.
6. Whilst I have not agreed with the Council in respect of the impact of the extensions to the dwelling on the character and appearance of the area, it will be seen from my decision that I agree with the Council that the outbuilding would be unacceptable in this respect. I have also found that the appeal scheme would have a detrimental effect on the supply of single storey properties within Fleet Parish which are suitable for independent occupation by persons of limited mobility.
 7. The Council's third reason for refusal includes concerns about the outbuilding being occupied as a separate residential unit. This is a matter which I have not found to be determinative, as I have based my decision on the proposed use of the outbuilding as an annexe providing subsidiary accommodation to the main dwelling, and on the proposed floor plan submitted with the planning application. In addition to referring to the building's use, the Council's third reason for refusal also refers to the size of the building and its failure to be ancillary to the host property and the Delegated Report refers to a resulting cramped form of development under the section relating to the annexe. The development plan policies referred to in this reason for refusal are identical to those of the first reason for refusal related to character and appearance. As such, there is a degree of overlap between the Council's first and third refusal reasons, which I have dealt with accordingly in consideration of the first main issue in my decision.
 8. Given my findings on the main issues, a condition to prevent the outbuilding becoming a separate unit of accommodation would not have affected the outcome of this appeal.
 9. Accordingly, I find that the Council was entitled to refuse the application and defend the appeal and has not acted unreasonably in so doing. I have found that the appeal scheme does not accord with the development plan and national policy, and that there are no material considerations that outweigh this conflict. As such, the appeal could not have been avoided.
 10. The applicant has referred to inconsistencies between pre-application advice provided by the Council and the subsequent reasons for refusal, and the Council considers that the applicant has based this on a limited exchange of information which did not reflect all of the issues associated with the scheme. Notwithstanding this, whilst the *National Planning Policy Framework 2019* encourages early engagement and good quality pre-application discussion, this is not binding, and does not affect the outcome of the appeal.

Conclusion

11. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

S Leonard

INSPECTOR