
Costs Decision

Site visit made on 1 April 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th April 2021

Costs application in relation to Appeal Ref: APP/A1910/D/20/3258261 24 Finch Road, Berkhamsted HP4 3LH

- 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 Anneke Laux for a full award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of planning permission for a two storey side extension and single storey rear extension.
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Decision

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

Reasons

2. Planning Practice Guidance 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 expense in the appeal process.
3. The applicant considers that the Council failed to substantiate its reason for refusing planning permission and made vague, generalised and inaccurate assertions about the proposal's impact. She also considers that development was delayed that should clearly have been permitted.
4. I first note that the Council's Planning Committee Members were entitled to come to a different decision to that recommended to them by its officers. This would not be unreasonable, provided that the conclusions drawn were properly substantiated.
5. Guidance¹ issued by the British Research Establishment (BRE) indicates that a significant impact upon light received by any given opening would be avoided where extensions would not breach a 45-degree angle when measured on either a horizontal or vertical axis. As will be seen from my decision upon the planning appeal that is the subject of this application, I am suitably satisfied that the 45-degree rule would be adhered to by the development proposal.
6. However, whilst a material consideration, the BRE guidance is not, to my knowledge, directly referenced in the text or supporting text to any adopted development plan policy. The development plan is the starting point for decision-making and alleged conflict with Policy CS12 of the Dacorum Core Strategy (September 2013) is specified upon the Council's Decision Notice.

¹ Site Layout Planning for Daylight and Sunlight (2011)

This policy sets out that, in broad rather than prescriptive terms, development should avoid, amongst other impacts, visual intrusion or loss of sunlight.

7. The first-floor extent of the applied for side extension would project beyond the rear building line of the closest part of the neighbouring residential property positioned to the northwest. It would also be located in proximity to the site's side boundary and to neighbouring glazed openings. In such circumstances, notwithstanding either the BRE guidance or my decision upon the planning appeal that is the subject of this application, I do not consider that it was unreasonable for the Council to come to the conclusions that it did (in either a sunlight or visual intrusion sense). Indeed, its reason for refusal is clear, specific, and supported by a relevant development plan policy.
8. Whilst the original statutory eight-week timeframe for determining the planning application was exceeded, development was not delayed that should clearly have been permitted. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Thus, having had regard to all other matters raised, an award of costs is not justified.

Andrew Smith

INSPECTOR