



Costs Decision

Site Visit made on 7 June 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal Ref: APP/Z3635/W/21/3268257

31 Denman Drive, Ashford TW15 2AN

- 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 T Gupta for a full award of costs against Spelthorne Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a part single storey, part two storey side and rear extension, and subdivision of the plot to create an additional one bedroom dwelling.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 Council granted planning permission for side and rear extensions at the appeal property, meaning that the extant permission was found by the Council to comply with the relevant planning policies, and would have a satisfactory siting, scale and appearance, and an acceptable effect on the street scene and the character of the area. Although extensions are common in the locality, evidence has not been provided to demonstrate that these other extensions comprise independent units of accommodation, as proposed in the planning appeal.
4. Furthermore, the consented scheme is materially different from the appeal proposal, as it does not seek to sub-divide the plot, or create an additional dwelling suitable for a single family which would likely be occupied by an independent and unrelated household to the existing property, and its doorway in the western flank elevation would not be the main entrance to a separate, self-contained dwelling. Thus, the Council were correct to treat the 2 schemes as being materially different, and to not give the extant scheme significant weight.
5. Although the Council used the words 'greater harm' in their Officer's Report, the Council did not state that the approved extensions would cause material harm to the character and appearance of the area. Rather, the 'Planning Balance' section of the Officer's Report stated that the identified harm arising from the proposal was not applicable to the consented scheme. The consented scheme was given weight in the planning balance. As such, reading the Officer's Report as a whole, in my view the Council was merely attempting to

convey the point that it was necessary to compare 2 materially different schemes. Accordingly, the Council did not misdirect itself.

6. The Design SPD¹ advises that for houses and flats alike, the height, depth, width and form of proposed buildings should be similar to those prevailing in the street frontage. However, the new dwelling would be set back significantly from both the existing property and the other dwellings in the terrace, and would have a noticeably lesser width than many of the other dwellings in the terrace. As such, the proposal would diverge significantly from the advice given in the Design SPD, resulting in planning harm in that the proposal would not be respectful of its context. It follows that the Council's interpretation of the Design SPD was correct.
7. As the new dwelling would be a narrow property located on a corner with its built form enclosing much of the existing gap between the 2 sets of terraces, it would have a cramped appearance. Thus, the Council were correct to describe the proposal as contrived and cramped.
8. Taking account of my findings above, with respect to Policy HO1 of the Core Strategy and Policies Development Plan Document (adopted 2009) the proposal would conflict with other policy objectives in relation to the character and appearance of the area. As the proposal would partly be built on a residential garden, it has not been demonstrated that the proposal would utilise brownfield / previously developed land with respect to the definition given in the National Planning Policy Framework (the Framework). Thus, the case has not been made out that substantial weight should have been attached by the Council to the provision of one new dwelling.
9. As the proposal would cause significant harm to the character and appearance of the area, with all its benefits offering modest support for the proposal (including a minimal amount of new housing), the Council were correct to determine, in applying paragraph 11 d) ii of the Framework, that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
10. The Council's Officer's Report contains a 'Planning Balance' section where the Council referred to its shortfall in housing land supply, the so-called 'tilted balance', a policy requirement to encourage housing development (including infill), and the proposal's contribution to housing supply. Based on the evidence before me, the Council identified the relevant planning considerations. The Council referred to the requirement to assess the proposal against the policies in the Framework taken as a whole, and in doing so I am not aware of any requirement for the Council to specify exactly how much weight is given to each and every individual consideration. In my view, the Council's reference to the 'tilted balance', placed under the 'Planning Balance' heading, indicates that it was applied in their decision-making.
11. Accordingly, I consider that the Council did not behave unreasonably with respect to the substance of the matter under appeal, and that the Council's behaviour was reasonable on all the grounds raised.

¹ Design of Residential Extensions and New Residential Development Supplementary Planning Document (adopted 2011)

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, I determine that the costs application should fail, and no award is made.

Alexander O'Doherty

INSPECTOR