



Costs Decision

Site visit made on 29 June 2021

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2021

Costs application in relation to Appeals Ref: APP/J0350/C/21/3270258, APP/J0350/C/21/3270259 and Appeal C Ref: APP/J0350/D/21/3269700 27 The Spur, Slough SL1 6EU

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Santosh Potnuru and Mrs Ramya Potnuru for a full award of costs against Slough Borough Council.
 - The appeals were against an enforcement notice alleging the construction of 8 rooflights, and the refusal of a planning application to vary condition 2 attached to planning approval ref. P/02939/001 to enable the retention of the existing dwelling subject to minor alterations, including permanent obscure glazing to side facing roof lights.
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Decision

1. The application is refused and no award of costs is made.

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 Guidance says that local planning authorities may be at risk of an award of costs being made against them if they behave unreasonably with respect to the substance of the matter under appeal. It gives examples, which include refusing planning permission on a planning ground capable of being dealt with by conditions where it is concluded that suitable conditions would enable the proposed development to go ahead.
4. In this case I concluded that planning permission should be granted for the development subject to the imposition of conditions. In doing so, I recognise that the windows give rise to an uncomfortable perception of overlooking but found that this would not be materially worse than the fallback of the approved scheme which included three lower and slightly larger windows. This conclusion was reached as a matter of judgement, and I do not consider that the Council acted unreasonably in coming to a different view.
5. The appellants suggest that the Council could have sought the removal of the upper row of rooflights by a condition on the s.73A application. The Planning Practice Guidance advises that it would not be appropriate to modify a development by condition in a way that makes it substantially different from that set out in the application. Bearing in mind that the rooflights were the most significant feature which differed from the approved scheme, a condition

which sought to modify a proposal by the removal of half of the features that the application sought to retain would have conflicted with that advice. Moreover, having regard to the appellants' clear desire to retain those windows it is unlikely that imposing such a condition would have avoided an appeal. I therefore consider that the Council did not act unreasonably in not pursuing that course of action.

6. I therefore conclude that unreasonable behaviour as described in the Guidance has not been demonstrated, and that the application for an award of costs fails and no award of costs is made.

JP Roberts

INSPECTOR