



Costs Decision

Site visit made on 10 August 2021

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 7 September 2021

Costs application in relation to Appeal Ref: APP/P4225/D/21/3275765 6 Kay Brow, Heywood OL10 3ES

- 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 Peter Mulligan for a full award of costs against Rochdale Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of existing conservatory and construction of new single storey extension to rear of property.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may 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. Citing the example given in the PPG and for the reasons given below, the applicant contends that the Council has prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The applicant states that the boundary treatment at the site was not properly considered by the Council. I note that there is no reference to the boundary treatment in the Officer's Report or Decision Notice. Nonetheless, the reason for refusal is complete, precise, specific and relevant. The Decision Notice states the policies of the Rochdale Adopted Core Strategy that the Council considers the proposal would conflict with. In addition, the Officer's Report justifies the refusal with reference to the Guidelines and Standards for Residential Development SPD.
4. Although the Council did not request a 45 degree plan in respect of the appeal, this is not necessarily a pre-requisite for deciding on the impact of development on the living conditions of neighbouring occupiers. Whilst it will be seen from my decision that I have taken a different view from the Council on the acceptability of the proposal, overall the Council's decision is not so inadequate or irrational as to amount to unreasonable behaviour.
5. The Council, in its Officer Report, concluded that the design of the proposal was satisfactory in terms of character and appearance, but the siting and scale was not acceptable from a living conditions perspective. The applicant contends that this is a contradiction that also amounts to unreasonable behaviour. However, these are two separate issues. Notwithstanding the acceptable design of the scheme, the Council clearly substantiated its refusal with specific reference to the impact of the

development on the living conditions of neighbouring occupiers due to its scale and siting. I am satisfied that the Council adequately set out its position.

6. The applicant further states that the Council acted unreasonably in its advice to submit a prior approval application, despite the presence of an existing extension on site. However, notwithstanding its accuracy or consistency, the advice given by the Council was informal only. It was open to the applicant to seek their own professional advice on the matter. In any event, I have no evidence that the prior approval application was submitted such that I see no unnecessary expense incurred as a result of this advice.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Planning Practice Guidance has not been demonstrated, and an award of costs is not justified.

C Rafferty

INSPECTOR