
Costs Decision

Site visit made on 15 October 2021

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Costs application in relation to Appeal Ref: APP/P0240/D/21/3277586 5 Knotts Close, Dunstable LU6 3NY

- 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 Mark Benson for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for retrospective: to erect a glass/chrome barrier around an already established flat roof to the rear of the property to form a balcony.
-

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 PPG states that examples of unreasonable behaviour by local planning authorities include preventing or delaying development which should be clearly permitted, having regard to its accordance with the development plan, national policy and other material considerations. The appellant's case is based on such substantive grounds, namely that the Council failed to take into account material considerations in determining the application and consequently misguided itself into making an irrational decision.
4. Both parties agree that Policy HQ1 of the Central Bedfordshire Local Plan 2015-2035 (2021) has replaced Policy BE8 of the South Bedfordshire Local Plan Review (2004) (as referred to in the decision notice) and both are consistent with one another. I agree with the appellant that the Officers Report, in assessing the development as '*a sympathetic addition to the existing dwelling,*' contradicts part of the Reason for Refusal which refers to a '*significant impact on the visual and residential amenities of neighbouring occupiers.*' However, both Policy HQ1 and BE8, in addition to responding positively to its context, requires development to have no unacceptable adverse impact or effect on privacy. On this issue I find the Officers Report to be thorough and well-reasoned and it is not at all irrational to cite a conflict with Policy BE8 (or HQ1) because of harm to privacy.

5. In the application for Costs, the appellant argues that the barrier was operational development involving the enclosure of an already established roof terrace. I have, however, been provided with no substantive evidence that this is the case and, to the contrary, the Council's evidence is that the flat roof is restricted in its use. I also note that discussions were held with the appellant during the application to try and find a solution to overcome the concerns of the Council (and a neighbour). For the reasons I have given in my assessment of the main issue, I concur with the Council that the proposal would cause significant harm to the privacy of neighbours and that the frosted glazing would not sufficiently mitigate that harm.
6. Accordingly, I do not consider the Council failed to properly evaluate the application or consider the merits of the proposal, and the appeal could not therefore have been avoided. I have found that in exercising their planning judgement the Council had reasonable concerns about the impacts of the development which justified its decision.
7. Finally, I acknowledge that letters of support were received from neighbours, but I note that this did not include the adjoining neighbour at No.7 Knotts Close. I am also mindful of the guidance in the National Planning Policy Framework that developments should create places with a high standard of amenity for existing and future users.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for costs is refused.

R Jones

INSPECTOR