
Costs Decision

Site visit made on 17 January 2022

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 21 January 2022

Costs application in relation to Appeal Ref: APP/U3935/D/21/3285341 40 The Knoll, Croft Road, Swindon, SN1 4DQ

- 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 Dr T Ghaffar for a full award of costs against Swindon Borough Council.
 - The appeal was against the refusal of planning permission for a ground floor extension to provide a new Kitchen/Dining room and ancillary spaces; a first floor extension to provide a family bathroom, a loft conversion to provide an ensuite bedroom, and a replacement garage.
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Decision

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

Reasons

2. The Planning Practice Guidance¹ (PPG) advises that, irrespective of the outcome of an 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.
3. The applicant's claims relate to the Council's behaviour before the appeals were made. The PPG² advises that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, although the behaviour and actions at the time of the planning application can be taken into account.
4. The applicant submits that the Council failed to engage with the applicant during the determination period, did not carry out a site visit and did not include a statement on its decision to explain how it had worked in a positive and proactive manner³. I am however not satisfied that there is evidence before me to demonstrate that any of these matters could constitute unreasonable behaviour at the appeal stage. The Council's officer report demonstrates that it had an adequate understanding of the site, its characteristics and constraints, sufficient to make its decision.
5. The applicant refers to a number of errors in the council's officer report. It is not clear why the Council measured various dimensions of the proposal differently to the applicant. However, the more modest measurements referred to by the applicant are still beyond those set out in the Residential Extensions

¹ Planning Practice Guidance Paragraph 030 Reference ID: 16-030-20140306

² Planning Practice Guidance Paragraph 033 Reference ID: 16-033-20140306

³ Ref: Provision 35 (2) of the The Town and Country Planning (Development Management Procedure) (England) Order 2015

& Alterations Supplementary Planning Document 2011, and it is clear that the Council's assessment of the proposal was based on the overall form of the extensions, their materials and their relationship to the host dwelling. I am thus not satisfied that the dimension discrepancy is so significant that I should conclude that the Council's assessment of the proposal was inaccurate.

6. The drawings show that the ground floor extension would sit alongside and be the same depth as the extension at the rear of the neighbouring dwelling. I am not sure why this needed to be explicitly acknowledged within the Council's report.
7. The Council refers to the proposed cladding as both 'fibre cement panels' and 'concrete panels' in its officer report. I am satisfied that both descriptions are adequate, and that a reference to the latter should not be considered inaccurate.
8. The Council refers to the impact on the 45 degree line taken from the neighbouring first floor windows. Whilst the Council assumes that the closest window is a bedroom window, it does suggest that it could be a bathroom, based on the layout of the appeal property. Given the depth of the proposed two storey extension and its proximity to the south of a neighbouring window I do not consider it unreasonable that the Council referred to this matter. Furthermore, the matter was raised by the occupier of this dwelling and therefore needed to be considered as part of my consideration of the appeal.
9. Regarding the loss of light to the neighbour, the extension would be due south of the neighbouring dwelling, which the Council acknowledges in its report. The Council also refers to the flat roof in this regard. This is a relatively straightforward matter based on the orientation of the buildings and scale of the proposal. I am not satisfied that more is required to support the Council's view that the proposal would impact light reaching the neighbouring dwelling.
10. I find that the refusal reason was substantiated, and that the Council did not make vague or generalised assertions about a proposal's impact. Although some references to dimensions differ from those put forward by the applicant, I am not satisfied that the differences are so significant that I should conclude that this amounts to unreasonable behaviour by the Council.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that the application for an award of costs should be refused.

A Tucker

INSPECTOR