



Costs Decision

Site visit made on 18 January 2022

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 25th January 2022

Costs application in relation to Appeal Ref: APP/Q3630/D/21/3284263 15 Kingswood Close, Englefield Green, TW20 0NQ

- 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 Mrs Sally Dobson for an award of costs against Runnymede Borough Council.
 - The appeal was against a refusal of planning permission for double/single storey rear extension, two storey side extension, replacement of front double storey section, new front bay windows and roof canopy above porch (revised plans received 13/07/21).
-

Decision

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

Reasons

2. The Planning Practice Guidance (the 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. The PPG sets out what type of behaviour may give rise to a substantive award against a local planning authority.
3. Officers recommended that planning permission should be granted for planning application Ref RU.20/1423 (the first application) on this site, but the Planning Committee resolved that permission should be refused by a majority of one vote. Subsequently a second planning application, Ref RU.21/0463 and a further application, Ref RU.21/1100 (the third application), the subject of the appeal to which this costs application relates, were refused by Officers under delegated powers. The latter two proposals were reduced in scale in an attempt to overcome the reasons for refusal.
4. The appellant seeks a full award of the costs on the grounds that the Council behaved unreasonably by not recommending the third application for permission given the reduction in scale; by not referring the application to Planning Committee, in the interests of good governance and after indicating by email that it would be so referred; by not positively and proactively engaging with the appellant for over a month and not responding to emails or telephone calls. Moreover, there was a different case Officer for the third application and that Officer did not visit the site.
5. It is clear from the delegated report on the third application that the Officer was aware of the earlier applications but considered that the reductions in scale were not sufficient to overcome the reasons for refusal. This is a matter of judgement and it is not unreasonable behaviour to exercise such judgement. I

acknowledge that the appellant considers that the reductions in scale between the proposals is significant, but the Council were entitled to come to a different conclusion.

6. I see no reason to doubt the Council's statement that there was no procedural or constitutional requirement for the third application to be referred to the Planning Committee, unlike for the first application. Moreover, the Planning Committee did not request oversight of any future applications. Even though the first application was refused by one vote this becomes the decision of the Council and gives a steer to Officers. I acknowledge that the appellant might have preferred the third application to be considered at the Planning Committee in the hopes that permission would be granted. However, I have seen no positive indication that that would be the case. In my view it was correct of Officers to follow the procedural and constitutional requirements and not to refer the application to the Planning Committee if that was not required.
7. The email from the Council dated 11 August 2021 stated "...it is my opinion that **if** the application is to be recommended favourably, it should go to the Planning Committee." (my emphasis). I do not consider that this gives a commitment to consider the proposals favourably. Moreover my interpretation of that email is that the third application would only be referred to the Planning Committee only if Officers were to recommend permission be granted, which was not the case.
8. It is unfortunate that the Council appears not to have engaged positively and proactively with the appellant but Officers were entitled to conclude that amendments small in nature and which did not require re-consultation would not overcome their concerns. It is not reasonable that the Council failed to respond to emails and telephone calls. However, this in itself does not affect the planning merits of the proposal.
9. It is good practice to visit sites before issuing decisions on planning applications. In view of the recommendation for permission in respect of the, larger, first application, and notwithstanding the availability of photographs or discussions with the original Officer, it seems to me that not carrying out a further site visit amounts to unreasonable behaviour on the part of the Council. However, there is no guarantee that a different decision would be reached, and given my own conclusions in relation to the proposals, I conclude that the appeal could not have been avoided.
10. 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.

S Harley

INSPECTOR