
Costs Decision

Site visit made on 8 February 2022 by G Sibley MPLAN MRTPI

Decision by David M H Rose BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2022

Costs application in relation to Appeal Ref: APP/C3240/D/21/3284587 30 Grovefields, Leegomery TF1 6YL

- 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 Lee Davis for the full award of costs against Telford and Wrekin Council.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("GPDO"). The development proposed is existing brick and tile dwelling with one additional storey comprising brick and tile to match the existing, with white u-pvc windows to also match the existing. Floor plans and elevations with critical dimensions included on submitted drawings.
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Decision

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

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Reasons for the Recommendation

3. The application for an award of costs was submitted in writing and the content will be familiar to both parties. Consequently, I shall not repeat the submission in full within this decision.
4. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour or no wasted expense an award will not be justified.
5. The applicant seeks an award of costs on the basis that the decision is unreasonable, and the Council's interpretation of the Statutory Instrument was flawed. This has resulted in the applicant expending professional costs for the submission of the appeal and delays with regard to the construction of the proposal.
6. The Council's officer's report sets out their reasoning why the scheme did not comply with Schedule 2, Part 1, Class AA of the GPDO. The report assessed the effect of the proposal upon the external appearance of the dwelling and upon

the wider area. At the time the decision was made there was little clarity regarding what could be assessed as part of condition AA.2(3)(a) (ii). In the absence of this it was not clear whether the neighbouring premises or the locality could or could not be taken into account and as a result, it was not unreasonable for the Council to also consider the wider area in their assessment.

7. Furthermore, Local Planning Authorities must determine prior approval applications under Class AA of Part 1, and Parts 3 and 20 with regard to the National Planning Policy Framework (Framework) 'so far as relevant to the subject matter of the prior approval, as if the application were a planning application.'
8. Paragraph 134 of the Framework states that development that is not well designed should be refused, especially where it fails to reflect local design policies. Therefore, there was provision within the Framework, which is relevant to prior approval applications, to consider the design of the proposal with the overall street scene. Additionally, development plan policies may be relevant to prior approval cases, but only insofar as they relate to the matters, and only as evidence to support (rather than being the basis of) the planning judgement made.
9. The Council referred to Policies BE1 and BE2 of the Telford and Wrekin Local Plan 2011-2031 (adopted 2018) in their assessment of the proposal.
10. Policy BE1 states that the Council will support development which respects and responds positively to its context and enhances the quality of the local built and natural environment. Furthermore, development should preserve and reinforce historic street patterns, layouts, traditional frontages and boundary treatments.
11. Policy BE2 states that the Council will support development which does not substantially alter the character of the dwelling and where the proposal respects the character of the area. Furthermore, the design should remain in keeping with the existing building.
12. Both policies refer to how proposals would be assessed in relation to their effect upon the character and appearance of the building itself and its effect upon the wider area. The assessment set out in condition AA.2(3)(a)(ii) includes but is not limited to the external appearance of the primary elevation of the dwelling and any side elevation fronting a highway, or the design and architectural features of those elevations. Evidently, the two policies are relevant to this matter. Moreover, the Council identified how the policies were taken into consideration after assessing the proposal and therefore, the policies were not the basis upon which the planning judgement was made. Therefore, the planning judgement made by the Council was not unreasonable.
13. The application has not shown that the Council's refusal was unreasonable or that this was a case where the proposal should clearly have been granted. Consequently, in the absence of unreasonable behaviour or evidence of wasted expense, as described in the Planning Practice Guidance, an award of full or partial costs is unjustified, and I recommend that the application should be refused.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's costs report above, and, on that basis, I too agree and conclude the applicant has failed to demonstrate unreasonable behaviour resulting in unnecessary expense as described in the PPG. The application for costs is therefore refused.

David MH Rose

INSPECTOR