



Costs Decision

Site visit made on 2 March 2022

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/Q0505/W/21/3284082

62 Oxford Road, Cambridge CB4 3PW

- 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 Jubilee Cottage Ltd for an award of costs against Cambridge City Council.
 - The appeal was against the refusal of planning permission for new studio dwelling in the garden of 62 Oxford Road, following demolition of outbuilding, along with associated landscaping works and new boundary treatments.
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Decision

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

Reasons

2. National Planning Policy 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 or wasted expense in the appeal process.
3. Paragraph 049 of the Planning Practice Guidance¹ states that examples of unreasonable behaviour that may give rise to a substantive award against a local planning authority.
4. In assessing the planning application, the Council were entitled to reach their own conclusions on the details put forward by the Applicant, including the contents of the design and access statement, and reach a judgement on what they considered the effects to be. Whether and how to conduct a site visit was a matter for the Council. The officer report indicates that the Council had a reasonable understanding of the proposal and the site context.
5. The adequacy of the garden space proposed for both the existing and new dwelling was a question of judgement, rather than whether it accorded with a prescribed policy metric. Although I disagreed with the judgement the Council reached, their reasons were adequately explained and supported by objective analysis.

¹ <https://www.gov.uk/guidance/appeals#how-to-make-an-application-for-an-award-of-costs>

6. There is a measure of inconsistency between the Council's decision notice and officer report regarding their concerns about garden sizes. However, the Council's case and reasons for their decision are adequately explained. The Council's concerns about amenity effects went beyond the issue simply of garden size. In bringing an appeal, these are matters that the Applicant would need to address in any event. As such, the degree of inconsistency does not give rise to material prejudice or wasted expense.
7. In relation to privacy effects, when I visited the site the relevant first floor window in No.62 was obscure glazed. Whether this was the case when the planning application was determined by the Council is not fully demonstrated. Regardless of whether this was indeed an oversight on the Council's part, again, their concerns about privacy went beyond just the single window in No.62. As the Applicant would need to address these matters on appeal anyway, I am not persuaded that wasted expense has resulted.
8. Whether the relevant window in No.60 serves a bathroom, or not, is not demonstrated by the evidence. This is notwithstanding the Applicant's assertion on the matter. Whilst the Council could have contacted the occupants of No.60 to confirm the use, this is not a reasonable expectation when regard is paid to the Council's duties in relation to the determination of planning applications.
9. In overall conclusion, on the balance of probabilities, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

D.R. McCreery

INSPECTOR