



Costs Decision

Site visit made on 20 May 2022

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2022

Costs application in relation to Appeal Ref: APP/X0360/D/22/3294863

1 The Street, Swallowfield, RG7 1QY

- 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 J Lewis for a full award of costs against Wokingham Borough Council.
 - The appeal was against the refusal of planning permission for development described as 'The proposed extension of a single storey front porch and single and 2-storey side and rear extensions following demolition of a side car port and rear single storey extension, plus 2no. solar panels to the rear roof and 4no. rooflights to the side and rear extensions'.
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Decision

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

Reasons

2. Planning Policy Guidance advises that, irrespective of the outcome of the 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 in the appeal process.
3. The Appellant submits that the Council has acted unreasonably in several ways, which can be summarised as: a) providing inconsistent and contradictory advice; b) failing to correctly apply planning policy as set out in the national planning policy framework (the Framework); c) incorrectly interpreting the submitted elevation drawings; and d) refusing to engage throughout the application process.

Inconsistent and contradictory advice

4. From the evidence before me, it seems that the appellant's originally submitted application scheme did not precisely follow the Council's pre-application advice. The advice suggested that the roof form of the extension be altered from a hip to gable-end. However, the Council's written advice did not suggest that the existing roof of the property should also be converted to a gable end, as was taken forward by the appellant. Consequently, some of the subsequent design advice provided by the Council during the application stage was neither inconsistent nor contradictory to previous issued advice.
5. It is also neither unusual nor always unreasonable for advice to be provided at pre-application stage only for alternative opinions to emerge during any

subsequent application. The fact that the pre-application advice is issued with a caveat highlighting its informal and non-binding nature reflects this.

6. In particular, design matters can often only be fully judged when detailed plans and drawings are available. A scheme's design is also frequently an iterative process, whereby appropriate solutions may only come to light following consideration of alternatives.
7. As such, whilst the advice of the Council may have altered as the application was progressed, I do not consider the requests of the Council to have amounted to unreasonable behaviour.

Failing to correctly apply National Planning Policy

8. The reason for refusal as set out in the decision notice is complete, precise, specific and relevant to the application, while the officer's report set out the reason for the designation of the Swallowfield Conservation Area (CA). The report also provides a clear indication of the likely historic background of the appeal property and why it is considered to make a positive contribution to the character of the CA.
9. The Council has also been specific in terms of identifying why it deemed the proposal to harm the character of the property, terrace, and therefore the wider CA. I have therefore not found the Council to be erroneous in its application of the policies of the National Planning Policy Framework, in relation to conserving and enhancing the historic environment.
10. Although it can be seen in the main decision that I disagree in relation to the overall findings of this main issue, the evidence presented by the Council is suitably specific and detailed as to not represent unreasonable behaviour.

Incorrectly interpreting the submitted elevation drawings

11. As indicated within my appeal decision, the elevational drawing appears somewhat awkward as it seeks to demonstrate the tapered design of the side/rear extension. Nevertheless, I deemed it to be sufficiently accurate to understand and determine the proposals. The accompanying floorplans and 3D model also add further clarity to the elevation drawings.
12. For the reasons outlined in my appeal decision, I accepted the appellant's request that the appeal be determined based on the original submitted plans. However, the Council determined the application based on an amended drawing no. 291-A1-14A. That drawing included a front dormer window, which as drawn, contained a clear error to its side profile. Therefore, the Council was not unreasonable in its findings that the drawing that its decision was based upon was inaccurate.

Refusal to engage throughout the application process

13. Both the PPG and Framework encourage local planning authorities to take a positive approach and work proactively with applicants. It is clear from the Council's evidence that the authority is receiving substantial numbers of planning applications and there are delays in process due to available resources. Despite the length of time taken for feedback from the local planning authority, I have little substantive evidence to suggest that the Council was unwilling to proactively engage with the appellant. This is

evidenced by the Council offering advice on how the scheme may be amended to seek to overcome concerns, as opposed to simply refusing the application.

Conclusion

14. For the reasons set out above, I consider that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Consequently, having regard to all matters raised, an award for costs is not justified.

Lewis Condé

INSPECTOR