



Costs Decision

Site visit made on 26 July 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2022.

Costs application in relation to Appeal A Ref:APP/P0119/W/22/3294010 668 Southmead Road, Filton BS34 7RD

- 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 Nick Howell for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of planning permission for the development proposed is demolition of existing garage and construct a 3 bedroom 3 storey house (one bedroom in the roof) together with ancillary cycle storage for both existing and new houses.
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Costs application in relation to Appeal B Ref:APP/P0119/W/22/3294641 668 Southmead Road, Filton BS34 7RD

- 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 Nick Howell for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of planning permission for the development proposed is demolition of existing garage and construct a 3 bedroom 3 storey house (one bedroom in the roof) together with ancillary cycle and shed storage for both existing and new houses.
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Decision

1. The application for an award of costs in relation to Appeal A is refused.
2. The application for an award of costs in relation to Appeal B is refused.

Preliminary Matters

3. As set out above there are two appeals on this site and costs applications have been made in both cases. I have considered each application on its individual merits. However, to avoid duplication I have dealt with the two applications together, except where otherwise indicated.

Reasons

4. Planning Practice Guidance (PPG) 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.
5. PPG states that examples of unreasonable behaviour by the Council include failure to substantiate reasons for refusal; vague, generalised or inaccurate

assertions about a proposal's impact, which are unsupported by any objective analysis; and a lack of co-operation with other parties.

6. The applicant states that the Council did not conduct a thorough assessment of the proposals and the context and failed to work with them in a positive and proactive manner to amend the design and avoid the need for an appeal. They also state that the Council decisions on the applications subject to Appeal A and Appeal B were overly reliant on a design guide and did not clearly explain and justify the reasoning and policy basis for the refusals. The applicant also states that not submitting an appeal statement or suggested conditions is a further example of unreasonable behaviour by the Council.
7. The reasons for refusal set out in the decision notice for the application subject to Appeal A and Appeal B are both sufficiently complete, precise, specific, and relevant to the application. The decision notices also clearly state the policies that the Council consider the proposal would be in conflict with. The reasons for refusal were adequately substantiated by the Council in the officer report for the application subject to Appeal A and Appeal B, both of which made a full and appropriate assessment of the proposal and the surrounding context. While the householder design guide is referenced it is in support of specified policies. It is the policies which form the basis for the refusals.
8. The officer reports set out how, in the assessment of the Council, the proposals subject to Appeal A and Appeal B would result in harm to the character and appearance of the surrounding area. The officer report for the application subject to Appeal B also sets out the Council assessment that the proposal would fail to provide suitable amenity space for future residents and would impact negatively on the living conditions of a neighbouring dwelling. Whilst an appeal statement could have added detail, the Council reasoning was adequately set out in officer reports. Suggested conditions have subsequently been provided and had one or both of the appeals been considered suitable to allow, conditions could have been applied.
9. I have considered the email between the applicant and the council and acknowledge the delay in responding. However, it is a usual part of the application process for proposals to be discussed internally and the email does not provide substantive evidence that would lead me to conclude that the Council failed to engage with the application process in a positive way. Any changes made to the proposal between the applications subject to Appeal A and Appeal B were a matter for the applicant to consider. The Council officer report provided sufficient information on which to base such considerations.
10. The planning application decision is one which is a matter of judgement. It can be seen from my appeal decision that in both Appeal A and Appeal B I agreed with the Council that there were sufficient grounds for refusing planning permission in regard to harm to the character and appearance of the surrounding area. I also agreed with the Council regarding the failure to provide suitable amenity space for future occupants. I did not agree with the Council in regard to the impact of the proposal subject to Appeal B on neighbour living conditions. I also acknowledge that the officer report in relation to Appeal B seems to miss the fact that the main door had not moved since the original application. Despite this, the application subject to appeal B was refused on other grounds and I have also dismissed Appeal B. Therefore, these matters did not lead to unnecessary expense for the applicant.

11. This costs application raises the matter of the Council not giving due weight to the housing need in the area. This was not raised as a key issue under the applications or the appeals and the Council state they can demonstrate a five year housing land supply. Consequently, the Council cannot be considered to have acted unreasonably in this regard.
12. Overall, for the reasons given, I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Helen Davies

INSPECTOR