



Costs Decision

Site visit made on 21 November 2022

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Costs application in relation to Appeal Ref: APP/Z1510/D/22/3305039 5 Parr Close, Braintree, Essex, CM7 9PT

- 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 English for a full award of costs against Braintree District Council.
 - The appeal was against the refusal of planning permission for the construction of a first-floor side extension.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the procedural handling of the case or with respect to the substance of the matter under appeal.
 3. The applicant claims that the Council wrongly assessed the planning application for two reasons. Firstly, that the Council was wrong to contend that the historical conversion of the original garage at the appeal property into habitable living accommodation had reduced the on-site car parking capacity at the property. Secondly, that the Council was wrong to contend that the proposed development would create an additional bedroom.
 4. Dealing with the garage conversion first. There is no dispute by the applicant that the property was originally built with an attached garage. The garage space was subsequently converted into living accommodation at some point in the past. The applicant argues that the original garage space was never capable of accommodating a parked car due to its limited size and that the property therefore never had on-site parking for two vehicles.
 5. Policy LPP43 of the Braintree District Local Plan 2013 - 2033 (2022) requires development to provide vehicular and cycle parking in accordance with the Essex Vehicle Parking Standards (EVPS). The EVPS states that the minimum expectation for a dwelling of two bedrooms or more is off-street parking provision of at least two spaces. It further states that prior to any extension or change of use, a developer must demonstrate that adequate parking will be provided. Therefore, regardless of whether the conversion of the original
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garage space actually reduced parking capacity on the site or not, with just one off-street parking space available, as a three-bedroom dwelling it is not unreasonable for the Council to have asserted that the property fails to meet the EVPS.

6. Turning to the appeal proposal. The officer's report states that '*the proposed floor plan indicates that the area will create an additional bedroom*'. This statement is incorrect. The proposed floor plan shows that the extension would, with some additional internal changes at first-floor level, help to create an enlargement of an existing bedroom. However, the report also states that '*it is likely that the proposed extension would lead to the development of a four bedroom home*'.
7. Based on my reading of the officer's report, it seems apparent that the decision was made on an understanding that there would be potential for the property to have four bedrooms rather than four bedrooms resulting directly from the proposed works. Given the requirements of Policy LPP43 and the limited off-street parking available for the appeal property, I do not consider the Council's assessment of the parking requirements resulting from the proposed extension to be unreasonable. The potential for the creation of additional parking demand is a legitimate concern that is supported by development plan policy.
8. Ultimately, the appeal decision turned on a matter of judgement. I determined that the impact from any potential additional parking demand generated by the proposed development would not be harmful. The Council determined differently but I do not find their concern to be unjustified or their reasoning to be unacceptably vague. Neither do I consider that the inaccurate assertion about the direct creation of a fourth bedroom led to any false conclusion.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated.

John D Allan

INSPECTOR