
Costs Decision

Site visit made on 23 January 2023

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2023

Costs application in relation to Appeal Ref: APP/H1515/W/22/3306526 40 Bishops Hall Road, Pilgrims Hatch, Essex CM15 9NX

- 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 Alan Toby for a full award of costs against Brentwood Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing side extension and garage and erection of 3 bed attached dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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.
3. The applicant claims that the Council acted unreasonably in objecting to the development subject to this appeal when allegedly comparable approved schemes elsewhere in the vicinity of the site indicated that planning permission should have been granted. In that context it is advanced that the Council misapplied planning policy in refusing the application. Furthermore, it is put forward that the Council's reasons for discounting the approved schemes were flawed as it states that they all relate to extensions and pre-date the current development plan, and that most pre-date the National Planning Policy Framework (Framework).
4. The PPG sets out examples of unreasonable behaviour which may result in costs being awarded against local planning authorities. Examples include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; not determining similar cases in a consistent manner; and making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. The Council's Delegated Report provides an assessment of the site and the surrounding area and sets out reasons why the development would be harmful. It states that the character of the area is varied. There is nothing definitive before me which indicates that its assessment was not informed by additions to properties in the area, either in terms of extensions or new dwellings.

6. Furthermore, whilst planning policy may not have changed substantively in respect of character and appearance matters when the development plan and the Framework were updated, and parts of the Council's appeal statement suggest that the approved schemes are all extensions, the part headed 'Section 6 – Page 14' shows that it was aware that there are also approved dwellings in the vicinity. In addition, that part of the Council's statement sets out other reasons why the approved schemes are not directly comparable to the development.
7. Taking all the evidence together, I do not consider that the Council's stance in discounting the approved schemes was unsubstantiated or otherwise unreasonable. Moreover, for the reasons set out in the appeal decision, I reach similar conclusions to the Council in respect of the development's impacts and find that none of the approved schemes indicate that permission should have been granted. The Council did not misapply planning policy in refusing the application or maintaining its objections at appeal.
8. Therefore, it has not been demonstrated that the Council has prevented or delayed development which should clearly be permitted; failed to determine cases in a consistent manner; or made vague, generalised or inaccurate assertions about the impact of the development.

Conclusion

9. Unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated. The application for an award of costs is refused.

Mark Philpott

INSPECTOR