



Costs Decision

Site visit made on 28 September 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Costs application in relation to Appeal Ref: APP/J1535/W/21/3289165 11 Crossfields, Loughton IG10 3PY

- 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 Oleg Kovalenko for a full award of costs against Epping Forest District Council.
 - The appeal was against a refusal to grant planning permission for 'erection of single storey extension and erection of new attached dwelling, following demolition of existing garage'.
-

Decision

1. A full award of costs is allowed in the terms set out below.

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. The PPG provides that local planning authorities (LPAs) are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include where an LPA persists in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
3. The application for costs is made solely in respect of the second reason for refusal on the Council's decision notice. I accept that the Council's planning committee members are not under an obligation to accept an officer recommendation.
4. However, the report to the Council's planning committee is unequivocal that the proposed dwelling is the same scheme that was previously dismissed at appeal¹. The report also makes it clear that the previous Inspector found that there would be no harm resulting from the proposed dwelling on the character and appearance of the area. There is nothing within the Council's case to suggest that there were any material changes in circumstance to justify persisting in objections to elements of the scheme that an Inspector has previously indicated to be acceptable.

¹ Appeal Ref APP/J1535/W/18/3208248

Conclusion

5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated in respect of the second reason for refusal on the Council's decision notice. For that reason, a full award of costs is justified in respect of this matter.

Costs Order

6. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Epping Forest District Council shall pay to Mr Oleg Kovalenko, the full costs in respect of the second reason for refusal on the Council's decision notice in the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
7. The applicant is now invited to submit to Epping Forest District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Russell

INSPECTOR