



Costs Decision

Site visit made on 21 February 2023

by K Townend Bsc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th March 2023

Costs application in relation to Appeal Ref: APP/A0665/D/22/3310611 21 Glencoe Road, Great Sutton, Ellesmere Port CH66 4LZ

- 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 C Swan for a full award of costs against Cheshire West & Chester Council.
 - The appeal was against the refusal of planning permission for a single storey side and rear extension.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and, where that unreasonable behaviour has directly caused the party applying for costs to incur unnecessary and wasted expense in the appeal process. Paragraph 049 of the PPG¹ provides examples of unreasonable behaviour which could result in a substantive award of costs being made against the Local Planning Authority.
3. The applicant claims that the Council has acted unreasonably by 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; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
4. The applicant's claim is that the Council failed to understand the proposed development; that it failed to recognise that the garage is existing; and that it failed to take account of the enhancement the proposal would have to the area.
5. The applicant asserts that the Council considered the proposal as a new build development rather than as a hipped roof on top of an existing garage. However, as detailed in my formal Decision, the proposed roof extension above

¹ Paragraph: 049 Reference ID: 16-049-20140306

the garage is both an extension to the dwelling and is new build development. The differences to the previous scheme are noted in the officer report. As such it is clear that the Council determined the application on the basis of what was submitted to them in the application form and as shown on the plans. Moreover, there is no substantive evidence before me to show that they considered the garage as an extension rather than as existing.

6. My formal decision also deals with the issue of the existing property being different to the surrounding dwellings; the effect of the proposal on the character and appearance of the existing dwelling and the area; and the asserted enhancement to the property. For the reasons set out in the formal decision I too have concerns regarding the effect of the proposed development on the character and appearance of the existing dwelling, the street scene and the surrounding area.
7. As a householder appeal case the Council relies on their report to substantiate the reasons for refusal, and I consider the Council clearly set out the reasons why the development was not acceptable. I also have no evidence that the applicant sought to enter into pre-application discussions or requested information or advice from the Council and that the request was refused.
8. Therefore, I have no substantive evidence that the Council has acted unreasonably in this case. As such, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

K Townsend

INSPECTOR