



Costs Decision

Site visit made on 11 April 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2023

Costs application in relation to Appeal Ref: APP/R0335/D/22/3311770 121 College Road, College Town, Sandhurst, Berkshire GU47 0RD

- 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 Anoop Radhakrishnan for a full award of costs against Bracknell Forest Council.
 - The appeal was against the refusal of planning permission for a single storey rear extension following the demolition of the existing conservatory and installation of two outdoor A/C units, one at the front and one at the rear of the property.
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Decision

1. The application for a full of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably, and thereby caused the party applying for the costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that awards may be procedural relating to the appeal process, or substantive relating to the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. The Guidance makes it clear that costs cannot be claimed for the period during the determination of the planning application, although behaviour of the parties at this time can be taken into account.
4. The application for an award of costs and the response of the Council has been made in writing and will not be repeated here in any detail. The appellant considers the Council made vague, generalised and inaccurate assertions about the scheme's impact that were unsupported by objective analysis. The assertion was that the development would result in adverse impacts with no explanation of what these would be, and that evidence to substantiate the reason for refusal was not provided. The Council did not deal with the application in a proactive manner, was inconsistent in its decision making, and the conduct of the Councillors resulted in unnecessary costs and delay.

5. My decision explains that I have found substantive reasons for allowing the appeal. When refusing an application the Council is obliged by the Guidance to make the reasons for refusal clear. The Council specified that it was the size, bulk and proximity of the proposal to neighbouring properties that was of concern.
6. However, the reason for refusal did not specify which nearby occupiers would experience harm, nor how. This is of particular relevance as one of the neighbouring properties, 123 College Road also has a deep rear extension. Furthermore, the Council has explained that the concern was with regard to the impact upon No 119. Consequently, the reference to neighbouring properties rather than specific ones within the reason for refusal is vague and generalised.
7. Noise from the air conditioning units was a matter that was identified as being capable of being controlled by a condition, and this included when both were operating together. Such a condition was suggested to protect nearby occupiers. Notwithstanding this, the Council diverged from the expert opinion of a consultee, and in doing so did not explain why the condition suggested would not ameliorate any harm. The application was not supported by a noise assessment, but details of the units were provided and the suggested condition was as a result of an assessment undertaken by the Council's Environmental Health section.
8. The Council is not bound to accept the recommendations of its officers, but if their technical and professional advice is not followed then reasonable grounds for taking a contrary decision need to be provided supported by relevant evidence. The Council has provided vague and generalised assertions that have not been supported by objective analysis.
9. There were delays in the Council's consideration of the application, albeit in part resulting from seeking accurate drawings and a noise assessment. Delays would have been frustrating for the appellant, but the requirement for accurate drawings was not unreasonable of the Council, nor was the requirement for information regarding the impact of the air conditioning units.
10. The appellant has also raised concerns regarding the consistency of the Council's decision making. However, the cases cited show a variety of differences with the appeal scheme. One was for the extension of a bungalow to a two storey dwelling, whilst another is for a much longer extension than that which is the subject of the appeal. For whatever reasons the Council permitted these schemes, it does not follow that such comparisons determine approval of the appeal scheme.
11. Reference has been made by the appellant to the conduct of the Councillors, including why the application was considered by the Planning Committee. Such matters would be of concern to the appellant, but for the purposes of this application I am obliged to consider the case as required by the advice in the PPG.

12. The consideration of planning applications and appeals involves matters of judgement that are at times finely balanced. In this case the Council failed to justify which nearby occupiers would be affected by the scheme and how, nor why conditions would not overcome any harm.
13. Given this, I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense as described in the Guidance has been demonstrated and a full award of costs is justified.

Costs Order

14. 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 Bracknell Forest Council shall pay to Anoop Radhakrishnan, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Office if not agreed.
15. The appellant is now invited to submit to Bracknell Forest 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.

J J Evans

INSPECTOR