The Planning Inspectorate

Costs Decision

Site visit made on 16 May 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2023

Costs application in relation to Appeal Ref: APP/W1850/W/22/3311527
Briar Bank, 49 Bank Crescent, Ledbury, Herefordshire HR8 1AF

- 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 Ms Julie Evans for a full award of costs against Herefordshire Council.
- The appeal was against the grant subject to conditions of planning permission for small scale demolition works with new single rear and two storey side extension to existing property at 49 Bank Crescent.

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 therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural and/or substantive. In this instance, the applicant refers to the Council's alleged unreasonable approach during the determination of the planning application and the imposition of a condition which the applicant states is unreasonable and does not meet the tests set down in the PPG.

3. The applicant states that the Council's decision and the imposition of the disputed condition reflects the comments of the Council's highway officer. It is stated that it was not necessary for the Council to consult the highway officer and that these comments ultimately led to the imposition of a flawed and unreasonable condition.

4. The proposal subject of this appeal sought planning permission for the erection of an extension. The extension increased the size of the dwelling and displaced an existing car parking space. Given this in such circumstances it was appropriate for the Council to consult with the highway officer to assess the resultant impacts on the free flow of traffic on the surrounding highway network. It follows then that it was not unreasonable for the Council to take on board the comments made by the highway officer.

5. The applicant states that during the course of the planning application the Council requested the submission of amended plans showing the provision of an additional car parking space and that this led to the imposition of a condition for the provision and retention of this space. Furthermore, it is stated that this condition is unreasonable as it requires the applicant permanently park a car on the space which would necessitate the purchase of a second car.

6. I note that the applicant chose to submit an amended plan as requested by the Council. Thus, any costs incurred appealing a condition which requires the development to be carried out as shown on this plan cannot be considered unreasonable, regardless of whether the applicant agreed with the Council's reason for seeking this amendment. Furthermore, whilst the condition restricts the use of this space, it does not require that a car is permanently parked on it. I therefore find that the imposition of a condition requiring the provision and retention of this space for parking cannot be deemed unreasonable.

7. The applicant states that the Council failed to justify the disputed condition. Notwithstanding my findings in relation to the main appeal decision, I find that the Council have provided a substantiated case in support of their decision.

8. The applicant also states that unnecessary delays in the determination of the application amounted to unreasonable behaviour and that this led the applicant to appeal the condition rather than submit an application to vary it. Whilst the delays in determining the application are unfortunate, I note that the Council did ultimately make a decision on the application. Furthermore, I have not been presented with any compelling evidence that the Council would not have determined an application to vary the condition had such an application been submitted. Therefore, the applicant did not incur unnecessary or wasted expense in the appeal process as a consequence of any delays in the determination of the planning application.

9. I find that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.

Nichola Robinson

INSPECTOR