



Costs Decision

Site visit made on 25 July 2023 by Max Webb BA(Hons) MSc

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2023

Costs application in relation to Appeal Ref: APP/P0119/D/23/3318814 3 Maisemore Avenue, Patchway, South Gloucestershire BS34 6BT

- 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 Neil Taylor for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of planning permission for iglu made of plywood.
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Decision

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

Procedure

2. An Appeal Planning Officer has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Preliminary Matter

3. The Council was given the opportunity to respond to the application for costs, but no response was received.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, 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.
5. The PPG sets out examples of types of behaviour which may give rise to an award of costs against a Council. These 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; and failure to produce evidence to substantiate each reason for refusal on appeal.
6. The proposed outbuilding exceeded permitted development rights in terms of its height. There is no substantive evidence before me that it was put to the Council during the application process that a potential fallback position existed for a lower building under permitted development rights. Therefore, it was not unreasonable that the Council did not consider this when reaching its decision.
7. Furthermore, the Council's concerns related not only to the height but also the length of the proposed building, therefore it is not unreasonable that amendments reducing the height were not sought, as this may not have led to a different decision. In any event, while the National Planning Policy

Framework sets out that Councils should approach decisions in a positive and creative way, a Council is not required by any legislation to contact an applicant suggesting changes to an application made to it. It was therefore reasonable that the Council determined the application on the basis of the plans submitted.

8. There is no legislative or policy requirement for a Council to undertake a shadow study as part of its assessment of an application. Indeed, Councils often use information provided by an applicant when assessing a proposal and the applicant could have submitted a shadow study at application stage. Although I have come to a different conclusion to the Council in terms of the effect of the proposal on light, this is a planning judgement based on the degree of shading that the appeal proposal would cause. It was not unreasonable for the Council to come to its conclusion based upon the information before it at the time of determining the application.
9. The Council's officer report sets out clearly the reasons for which it refused the application and relates this to relevant development plan policies. Therefore, the Council has substantiated its reasoning and reason for refusal. The issues raised are matters of planning judgement, and while I have reached a different conclusion to the Council, this was not a development which should clearly have been permitted. Therefore, an appeal may still have been submitted.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not warranted.

Max Webb

APPEAL PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree with the reasoning set out above. On that basis the application for an award of costs is refused.

L McKay

INSPECTOR