



Costs Decision

Site visit made on 22 January 2024

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2024

Costs application 1

**Costs application in relation to Appeal Ref: APP/T3725/D/23/3327076
13 Hall Close, Stoneleigh, Warwickshire CV8 3DG**

- 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 Parminder Bal for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of planning permission for the erection of first floor side extension, part two storey part single storey rear and side extension, timber cladding.
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Costs application 2

**Costs application in relation to Appeal Ref: APP/T3725/D/23/3327076
13 Hall Close, Stoneleigh, Warwickshire CV8 3DG**

- 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 Warwick District Council for a full award of costs against Mr Parminder Bal.
 - The appeal was against the refusal of planning permission for the erection of first floor side extension, part two storey part single storey rear and side extension, timber cladding.
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Decision

1. Costs application 1 - The application for an award of costs is refused.
2. Costs application 2 – The application for an award of costs is refused.

Reasons

3. 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. The word “unreasonable” is used in its ordinary meaning, as established by the courts in *Manchester City Council v SSE & Mercury Communications Limited* [1988] JPL 774. Unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive.

Costs application 1

4. The PPG guidance identifies various possible unreasonable behaviours by a local planning authority. These include 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 not determining similar cases in a consistent manner¹. Local authorities are encouraged to properly exercise their development management responsibilities, and to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case².

5. The Council's delegated report clearly articulates the reasons why the proposed development would constitute inappropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant policies of the Warwick District Local Plan 2011-2029 (Local Plan). Thereafter, the Council's design expectations are clearly set out with specific reference made to Local Plan Policy BE1. The appraisal of the scheme is somewhat brief with regards to design matters. It does however clearly set out that the proposed extension is disproportionate in scale and out of keeping with the street scene. This is discussed in greater detail in relation to percentage increases within the previous section of the report.
6. Taken as a whole, I find that the Council's reasoning clearly sets out clear and unambiguous reasons to refuse planning permission. Consequently, the evidence does not persuade me that the Council prevented or delayed development which should clearly have been permitted.
7. The Council's comments in relation to the angled wall appear somewhat unjustified given that planning permission for a similar scheme³ has been given. However, this is only one aspect of the proposal. Whilst the individual components of the development including the angled wall may be acceptable in isolation, taken as a whole, the scheme would result in a disproportionate and obtrusive form of development. The specific reference to this element is not unreasonable nor does it undermine the Council's reasoning.
8. It is clear from the report and supporting emails that the Council had regard to similar developments within the locality. However, unlike the appeal scheme, these were not found to be disproportionate. Therefore, it is not the case that the Council failed to recognise these developments or determine proposals in a consistent manner. In any event, in such circumstances, there is a degree of planning judgement based on the specifics of the case. Therefore, whilst the 30% threshold may have been exceeded historically, this does not justify the appeal proposal or suggest to me that the Council's decision to refuse planning permission was inconsistent.
9. For the reasons set out in my decision, the permitted scheme is materially different and would not result in the same harm as the appeal proposal. This therefore does not weigh in favour of the scheme. Moreover, whilst the indicative plan accompanying the appeal demonstrates that a larger floor space increase could be achieved via permitted development, it appears that there were no such details before the Council when the planning application was determined. In the absence of such information or indeed a Lawful Development Certificate demonstrating that the fallback could be realistically implemented, I do not consider the Council's position was unreasonable in this regard.

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

² Paragraph: 028 Reference ID: 16-028-20140306

³ W/23/0035

10. Accordingly, I find that unreasonable behaviour resulting in unnecessary or waste expense, as described in the PPG has not been demonstrated by the applicant.

Costs application 2

11. The Council contend that the appeal planning application was submitted despite constituting inappropriate development in the Green Belt. The Council is of the view that this would have been known to the applicant given the findings of the appeal decision and previous correspondence between the Council and the applicant which led to the 2023 approved scheme. Moreover, the Council suggest that the appeal follows a recent appeal decision in respect of the same or very similar development at the appeal site which was dismissed by the Inspector for similar reasons.
12. It is acknowledged that the proposed increase in gross internal floor space is more than double the size parameter indicated as being acceptable in Local Plan Policy H14. However, the overall form and design of the appeal proposal is notably different to that previously proposed⁴, as is the scale and massing. Consequently, it was not unreasonable for the appellant to consider that the weight afforded to the Green Belt harm could differ. As such, I do not consider that the appellant acted unreasonably in bringing the appeal.

Conclusion

13. For these reasons I do not consider that unreasonable behaviour resulting in unnecessary or wasted expense has been demonstrated. The respective cost applications are therefore refused.

H Wilkinson

INSPECTOR

⁴ 4W/21/1844