

Costs Decision

Site visit made on 1 February 2024

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

**Costs application in relation to Appeal Ref: APP/Z0116/D/23/3333962
133 Shirehampton Road, Sea Mills, Bristol, BS9 2EA**

- 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 was made by Timothy Walker for a full award of costs against Bristol City Council.
 - The appeal was against the refusal of planning permission for a first floor rear extension (over an existing ground floor extension).
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance: Appeals (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.
 3. The application for costs is made with respect to the substance of the matter under appeal, on the basis that the Council unreasonably refused the planning applications.
 4. The Council's reason for refusing the application was that *'the proposal, by virtue of its development of the garden land to the side of the house and its positioning forwards of the building line of the host property, would harm the spacious and open character and appearance of the corner plot location.'*
 5. The application form described the proposal as *'First floor rear extension (over an existing ground floor extension)'*. The same description was contained on the Decision Notice. The drawings showed a first floor rear extension. The proposal was clearly not for an extension onto garden land to the side of the house, or forward of the building line, and the appeal property is not on a corner plot.
 6. The Council's Delegated Report also referred to refused planning applications in 2016 and 2018 that were considered to be relevant to consideration of the current proposals. The appellant states no such applications related to the property, and the Council's own recital of the planning records does not list such applications.
-

7. My decision on the appeal finds no conflict with the relevant policies of the development plan. I accept that the matter of design and the effect on character and appearance involves a degree of judgement. However, in this instance the Council's reasons for refusing the planning application were seriously at error as a matter of fact. It is further apparent that their reasoning was at least in part based on errors of fact.
8. The PPG states (paragraph 049) that a possible ground for unreasonable behaviour may be where a local planning authority makes vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. This was the case in this instance: there were inaccuracies and my judgement is that these prevented development which should clearly be permitted, having regard to the development plan and national policy.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and this unreasonable behaviour has directly caused Timothy Walker to incur unnecessary expense in the appeal process and that a full award of costs is justified.

Costs Order

10. 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 Bristol City Council shall pay Timothy Walker the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Bristol City 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.

C J Leigh
INSPECTOR