



Costs Decision

Site visit made on 20 February 2024

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2024

Costs application in relation to APP/Z0116/D/23/3335779

37 Glenavon Park, Bristol, Sneyd Park, BS9 1RW

- 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 & Mrs Li for a full award of costs against Bristol City Council.
 - The appeal was against the refusal of planning permission for proposed side infill single storey extension, front porch, roof replacement including raising the height and external alterations to fenestration (including velux windows), rear doors and dormer roof extensions (revision of consent granted 22/02387/h).
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Examples of unreasonable behaviour by local planning authorities set out in the PPG include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant's cost claim in summary submits that the Council behaved unreasonably in that it failed to take into account: its own Local Plan and guidance; other planning approvals and the fallback position from an extant permission. Further, that it failed to substantiate its reason for refusal.
5. The fallback position referred to by the appellant was an extant permission for the same scheme as the proposed development, minus the dormer windows. In my view, the 2 dormer windows sufficiently changed the scheme such that it was not comparable to the fallback position. Even if the Council had considered it, the harm it attached to the dormer windows, and thus the proposed development, would no doubt have outweighed the weight it would have attached to the fallback position. As such, I do not consider the failure to have regard to it was necessarily unreasonable or would have changed the Council's decision had it done so.

6. The appellant submits that the dormer windows were the only element of the proposal that should have been considered by the Council, because other parts of the scheme were already approved under the extant permission. As the dormers conformed to guidance in the Council's Supplementary Planning Document, the proposal was in accord with the Local Plan and should have been approved. However, it was not unreasonable of the Council to consider the dormers together with the other elements previously permitted and conclude that, in combination, they would be too large and out of scale and character with the host dwelling and surrounding area, as referred to in the reason for refusal, and thus contrary to the Local Plan. In this regard, the Council substantiated its reason for refusing the application. Although I came to a different conclusion, that is a matter of judgement.
7. The examples of other proposals approved by the Council, provided by the appellant, were not directly comparable to the appeal proposal and do not therefore provide evidence of inconsistency in determining applications. Also, the reference to failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission is not relevant given that the proposed scheme was materially different to the previous consent.
8. Regarding suggestions that the Council made vague, generalised, or inaccurate assertions about the proposal's impact, the Officer's report is poorly worded and some comments in it do not logically fit with the reason for refusal. Nonetheless, the reference to the combined effect of the extensions, in terms of the overall scale of the development, and the increased roof height and addition of dormer windows giving the appearance of an extra storey in an area of 2 storey houses, is enough to demonstrate that an objective analysis had been carried out which justified the Council's decision.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. As such an award of costs has not been justified in this case.

P D Sedgwick

INSPECTOR