



Costs Decision

Site visit made on 1 March 2024

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2024

Costs application in relation to Appeal Ref: APP/J3720/D/23/3333742 9 Avon Crescent, Stratford-Upon-Avon CV37 7EU

- 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 Fraser Chambers for a full award of costs against Stratford-on-Avon District Council.
 - The appeal was against the refusal of planning permission for ground floor rear dining room, breakfast room, utility, shower room and home office extensions. First floor pitched roofed en-suite bedroom extension.
-

Decision

The application for an award of costs is refused.

Reasons

1. The Planning Practice Guidance 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 expenses in the appeal process.
2. The appellant seeks a full award of costs based on both substantive and procedural matters. Many of the concerns raised by the Appellant relate to the Council's handling of the planning application and the previous application. The previous appeal decision (APP/J3720/D/22/3311212) did address the matter of the Council's approach in that case and found that the reason for refusal was precise and substantiated.
3. While the planning process may have been frustrating and lengthy for the Appellant an award cannot extend to compensation for indirect losses, such as future rent, which may result from the alleged delay in obtaining planning permission. The Council acknowledge that the determination period was beyond the statutory 8 weeks, but also, from the correspondence before me, the Appellant was first advised that the application would not be supported on 2 August 2023 and was invited to withdraw the application. It was not refused until 11 October 2023 with the Appellant proposing an alternative design and questioning the Council's position in the intervening period. An email from the case officer's line manager dated 15 September 2023 explained the specific concerns with the proposed development and the Council's approach to decision-making.
4. The National Planning Policy Framework does require local planning authorities to approach decisions in a positive and creative way, however, this does not necessarily mean that planning permission will always be obtainable for the specific development proposed. Planning law requires planning applications to

be determined in accordance with the development plan, unless material considerations indicate otherwise.

5. The reason for refusal is worded differently to the previous scheme and together with the officer's report explains the issues and references the relevant policies and guidance. I can understand, with reference to the previous appeal decision, that the appellant believed that terracing was not an issue and thereby referring to a "terracing effect" may have given the impression that the previous appeal decision had not been given due regard. However, this current scheme is for a different design which is to be considered on its own merits and the Council is entitled to take a different view, where it is justified. The Council in the officer's report explain their position and refer to the previous appeal decision. There is no direct reference to paragraph 6, but the appeal decision is to be read as a whole and was dismissed.
6. The inclusion, or not, to a "terracing effect" would not have changed the Council's overall decision and therefore the need for an appeal. I do not find that the Council were unreasonable in coming to their decision, and indeed following consideration of the application on its merits alone, I have concurred with the Council. Furthermore, there is nothing before me to suggest that the appellant has directly incurred any additional cost at appeal as a result of this matter.
7. In coming to their decision, the Council has considered the proposal in the context of the host property, its relationship with neighbours and other developments within the wider area, and the previous appeal decision. They also communicated with the Appellant's agent and the Appellant at various stages. There is no indication from the exchange of emails before me that the application was to be presented to the Planning Committee, and the determination of many applications will be delegated to officers in accordance with the authority's scheme of delegation.
8. I appreciate that the planning process may have financial and other implications for the Appellant in terms of design fees, commencing work on-site and future dates for occupation. Nevertheless, due consideration of the proposal is necessary, and an award of costs is not to provide compensation for indirect losses.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

G Ellis

INSPECTOR