The Planning Inspectorate

Costs Decision

Site visit made on 16 April 2024 by N Manley BA (Hons) MSc

Decision by S Edwards BA MATCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Costs application in relation to Appeal Ref: APP/F1610/D/23/3334550
Swallows Nest, Arlington, Bibury, Cirencester GL7 5ND

- 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 Adrian Wright for a full award of costs against Cotswold District Council.
- The appeal was against the refusal of the Council to grant planning permission for 1.5 storey extension.

Decision

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

Reasons

2. 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 PPG notably sets out examples of unreasonable behaviour by local planning authorities, and advises that awards may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. In this instance, the costs claims relate to both procedural and substantive issues

3. The applicant contends the Council behaved unreasonably by failing to substantiate a stated reason for refusal and have regard to government policy and its own policies. It is also argued that the Council submitted inaccurate and misleading information to the planning committee, but also did not make the consultation response from the conservation officer and the applicant's response to these comments available to members. Furthermore, the applicant considers that the Council acted unreasonably in modifying or adding terms to the wording of current policies.

4. The Decision Notice clearly sets out the reasons why the proposal is considered harmful, and identifies conflict with the development plan and the National Planning Policy Framework. The Council's concerns are articulated in detail and adequately substantiated within the case officer report, and I have seen nothing in the presented evidence suggesting that the assessment carried out was not objective and not based on a thorough analysis or failed to have regard to local and national planning policies.

5. Although the Council could have provided further details in respect of the Cotswold Design Code, it was nevertheless mentioned within the case officer report and the Decision Notice, and more fundamentally, I have seen nothing

in the available evidence to demonstrate that this would have prevented the appeal.

6. The applicant argues that the Council failed to assess the effect of the proposal on the area's landscape character. However, the case officer report does explicitly reference the contribution which they believe the existing site makes to the area and their reasoning behind this, stating the impact and harm they feel the development would have on the Cotswolds National Landscape.

7. Furthermore, the applicant suggested that the previous appeal decision[1] for a different proposal on the site should have led the Council to a different conclusion. However, the case officer report and consultation response from the conservation officer clearly reference this appeal decision and explain their rationale for their recommendation. Having regard to the presented evidence, I have seen nothing suggesting that the appeal decision was treated other than as an important material consideration for the determination of the planning application. It is clear that the Council did not solely rely on this decision and provided other reasons to substantiate its decision.

8. The Council carried out an audit check which showed that the comments of the conservation officer were not removed during the course of the planning application. Whilst it is regrettable that the details of this audit check have not been formally submitted in support of the Council's rebuttal, I have no reason to believe, based on the available evidence, that the members of the planning committee did not have all the necessary information to make an informed decision regarding the proposed development. Additionally, the committee meeting minutes clearly show that the applicant had the opportunity to present their case to the members along with the opportunity to draw members' attention to points made by the Council which he considered erroneous.

9. The applicant contends that the Council distorted policy wording and added wording which does not appear in local or national planning policies. However, having regard to the available evidence, it is my conclusion the Council correctly applied policy and the phrases used within the case officer report simply reflect the officers' professional judgement in assessing the proposal's impact, rather than any deliberate misrepresentation. There is no indication that the reasons for refusal or the appeal outcome would have changed, had the wording been different.

10. A summary has been provided by the applicant of what he perceives to be further mistakes and inaccuracies within the case officer report with reference to several other previous applications nearby. Whilst I have had regard to the details provided by the applicant in respect of one of the aforementioned applications[2], this is considered of very limited relevance to determine whether the Council acted unreasonably within the context of this appeal.

11. The applicant cites a recent costs appeal decision where costs were awarded, claiming it sets a precedent for their situation. However, I have only seen a brief excerpt of this decision and consequently lack the full context, making it unclear if the circumstances of this decision are directly comparable with the current application seeking an award of costs. I have therefore afforded this other decision very limited weight.

[1] APP/F1610/W/16/3159877.
[2] Local Planning Authority Reference 14/03735/FUL.

12. The applicant has criticised the Council's handling of potential issues raised by the conservation officer. However, the Council offers a pre-application service that the appellant could have utilised. Moreover, the Council was required to determine the planning application and it was perfectly reasonable not to seek amended plans if the Council believed that the objections to the scheme could not be satisfactorily addressed. While it may seem that the Council could have reached a decision on the application more quickly, there is insufficient information before me to confirm the exact timeline or determine if there was an unreasonable delay, as a result of which the applicant occurred unnecessary expense.

13. Overall, I find the Council adequately assessed the proposal and explained their concerns in the case officer report, with reference to adopted policy and guidance. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not warranted.

N Manley

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and my representative's recommendation and, on that basis, I too agree and conclude that the applicant has failed to demonstrate unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG. The application for costs is therefore refused.

S Edwards

INSPECTOR