



Costs Decision

Site visit made on 13 December 2024

by N Perrins MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2025

Costs application in relation to Appeal Ref: APP/Q3820/D/24/3347548 60 Hazelwick Road, Three Bridges, Crawley, West Sussex RH10 1LZ

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms J O'Brien for a partial award of costs against Crawley Borough Council.
 - The appeal was against the refusal of planning permission for a loft conversion with dormer.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. 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 expense in the appeal process.
3. The applicant has applied for a partial award of costs as they consider the reasons for refusal are not justified and that the appeal was unnecessary. Specifically, the applicant considers that the Council has demonstrated unreasonable behaviour due to (i) the failure to apply the planning balance and consideration of the titled balance, (ii) the failure to respond to the applicant and agent's correspondence in a reasonable period, (iii) failure to communicate the issue of the accuracy of the drawings during the application when it could have been dealt with, and (iv) not acknowledging that the extension has been built within the confines of the application premises as supported by party wall and building control notices.
4. Starting with (i), as I have found in my related appeal decision, the Council made a rational and reasonable planning judgment on the merits of the scheme against the relevant development plan policy and National Planning Policy Framework (the Framework). Whilst the appellant does not agree with the Council's assessment, I find that the Council's application of its planning judgment was not unreasonable or in any way erroneous. In these circumstances the application of the Framework's presumption in favour of sustainable development set out in Paragraph 11 is not engaged nor relevant to the determination of the appeal proposal. I, therefore, find that the Council has not acted unreasonably with regard to (i).
5. In terms of (ii), I have reviewed the correspondence provided by the applicant that highlights the extensive delays incurred. This is clearly unsatisfactory for the appellant to have had to endure with the responses from the Council where given repeatedly unhelpful and indecisive. I have no doubt that this would have been very frustrating for the appellant. There is no evidence before me that justifies why the

application took so long to determine when the application of the relevant planning policies and judgements are relatively straightforward. That said, when the Council finally made its decision, it was one that was soundly based and objectively applied. In this context the applicant would always have needed to appeal and incurred the related expenses required to argue their case on the planning merits. Accordingly, whilst there appears to be no justification for the time it took for the Council to determine the application, I find that this does not constitute unreasonable behaviour that has resulted in the applicant incurring wasted or unnecessary expenses as part of the appeal process.

6. With regard to (iii), the inaccuracies with the submitted plans were clearly outlined in the Officer's Report and were made known to the applicant prior to the appeal being made. However, it is clear from the Officer's Report that the Council assessed the proposal on the as-built basis. As the appeal sought to regularise the current situation, this was not unreasonable. Assessing this as-built situation, the Council found the proposal to result in harm. Therefore, even if the plans had been accurate on submission, or the Council had asked for updated plans to correctly reflect the as-built development, the Council's decision would still have been the same. The appeal would still have been necessary and, as such, no wasted expense was incurred. It is also clear from my appeal decision that both the as-built development and that shown on the submitted plans are unacceptable and the Council's reasons for refusing planning permission were, therefore, soundly based. For these reasons, I do not agree that the Council has acted unreasonably regarding (iii) and find that the applicant has not incurred wasted costs during or leading up to the appeal process on this point.
7. Finally (iv) and the applicant's view that the extension has been built wholly within the application site. I do not agree that this is the case based on my observations at the site visit and the other information before me. It appears clear from this that the extension encroaches onto the adjacent property's roof space. No evidence has been presented that objectively disputes this. The Council were entitled to take this view based on the information before them. I, therefore, do not find the Council reaching this view amounts to unreasonable behaviour or that the party wall and building control requirements have any relevance in considering this award for costs as part of a planning appeal.

Conclusion

8. Overall, and for the reasons outlined, I find that the Council has acted reasonably throughout the appeals process. Unreasonable behaviour resulting in unnecessary or wasted expense has therefore not occurred and an award of costs is not warranted.

N Perrins

INSPECTOR