



Costs Decision

Site visit undertaken on 30 December 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 5th February 2025

Costs application in relation to Appeal Ref: APP/C3105/D/24/3348282 141 Bismore Road, Banbury OX16 1JN

- 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 Andrew Wilde against the decision of Cherwell District Council.
 - The appeal was against the refusal of planning permission for a single-storey flat roof garage at end of driveway into rear garden.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 put forward one ground for unreasonable behaviour that relates to procedural elements (relating to the process). I turn to the ground below.
4. In seeking an award of costs the Appellant states that they believe the Council has behaved unreasonably as they were not offered the ability to amend the planning application in order to make the application acceptable. The application was the second application lodged by the Appellant, after the first application was refused on the ground of the garage building being too tall and affecting the living conditions of a neighbouring occupier. As shown in the appeal documents, there have been a number of discussions between the Council and the Appellant around height and depth of the proposed garage in order to make the garage acceptable and in accordance with planning policy. The Appellant's Statement of Case (SoC) also shows emails¹ from the Council that they believed a total height of 2.1 metres would be acceptable along with the reduction of depth (which was amended to an acceptable arrangement). The Council also state in their SoC the discussions that have taken place, as well as a meeting free of charge to the Appellant after the first planning refusal which indicates that the Council have dedicated a great deal of time to an application that would not ordinarily require such time.

¹ Email from Council to Appellant Dated 8 April 2024, 26 April 2024

5. Whilst it is good practice for a Council to seek amendments to resolve matters that are outstanding, they are under no legal obligation to seek such amendments. The only legal obligation and duty that the Council are under is to make a decision on a planning application based upon the information they have in front of them which they felt that there was sufficient grounds to refuse the application.
6. I can also appreciate concerns from the Appellant as to the language used in planning can be difficult to understand at times and that there is a need for more Council's to take a plain English approach in order to assist applicants that are unfamiliar with the terminology and language of the planning system. However, it is clear to me that the Council were very explicit and consistent as to what height they felt was appropriate, and that the height of the scheme was lowered from 3.8 metres to 2.4 metres as a result of discussions, which shows that the Appellant understood what the problems were and was attempting to resolve these, but didn't go far enough. As such this appeal could not have been avoided as concerns were still outstanding which justified the approach that the Council took in refusing the applications. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.
7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated in this costs application. For this reason, and having regard to all other matters raised, an award for costs in this appeal is therefore not justified.

J Somers

INSPECTOR