Planning Inspectorate

Costs Decision

Site visit made on 25 March 2025

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2025

Costs application in relation to Appeal Ref: APP/Q3305/W/24/3349703
Furlong House, Ford Lane, Henton, Wells, Somerset BA5 1PD

- 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 M Jackson for a full award of costs against Somerset Council.
- The appeal was against the grant of planning permission subject to conditions for two storey side and rear extension, two single storey rear extensions, raising of roof pitch of main building, front verandah and garden studio building.

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.

3. The PPG gives examples of the types of behaviour that could give rise to an award of costs against a local planning authority. They are not exhaustive but include preventing or delaying development which should clearly be permitted; having regard to its accordance with the development plan, national policy and any other material considerations.

4. The applicant cites unreasonable behaviour by the Council for its imposition of condition 4 when it approved the various extensions at the host property. The appellant considers the Council's lack of challenge of its appeal statement implies the Council has no case to answer and that it was unnecessary to impose the condition. As a result the applicant has gone to unnecessary and wasted expense in appealing the condition.

5. The Council's case is that the condition was necessary, based on what they were able to ascertain from a site visit when there was no roof terrace to stand on before planning permission was granted. The Council relied on their Officer Report, which sets out the Council's reasoning for imposing the condition, and did not submit an appeal statement.

6. The Council's planning officer made a site visit and made a judgment about what would be seen from the proposed roof terrace based on what they could see from existing windows, as the proposed roof terrace did not exist. They considered the situation would be worse from the proposed roof terrace. This is a reasonable approach to take. At the time the Council did not have the benefit of the cross-

sectional plan showing sightlines as the applicant did not consider it necessary to submit it. However, as it has been submitted with the appeal, I have been able to benefit from it.

7. The Officer Report clearly sets out the rationale for imposing condition 4. The Council considered the potential for overlooking from the roof terrace, recognised the boundary hedge provided a good screen and that the roof terrace was a significant distance away as to be unlikely to cause overlooking. However, as the height of the hedge could not be guaranteed, this caused the Council to have concerns. In balancing the interests of the applicant and neighbouring occupiers, the Council imposed condition 4 to protect the amenity of the occupiers of Marlborough House, believing the condition to be reasonable and necessary. They were entitled to come to this conclusion as a matter of planning judgment.

8. The decision notice includes a clear and succinct reason why condition 4 was imposed namely. This logically follows on from the reasoning in the Officer Report and links to the relevant development plan policy. The fact the Council did not submit a separate appeal statement, but instead relied on their Officer Report, does not infer that the Council was wrong in their judgement.

9. Drawing all the points together, the Council exercised their planning judgment, which they were entitled to do, and followed through their concerns and planning functions with due diligence and imposed condition 4 because they considered it reasonable and necessary to do so. I find the Council's decision to impose condition 4 does not amount to unreasonable behaviour.

10. I need not concern myself as to whether wasted expenditure has occurred, as both tests need to be satisfied before an award of costs can be made.

Conclusion

11. Unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Stephens
INSPECTOR