
Costs Decision

Site visit made on 23 February 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2021

Costs application in relation to Appeal Ref: APP/D3125/W/20/3259565 High Ridge, 46 High Street, Milton under Wychwood OX7 6LE

- 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 and Mrs N Earley for a full award of costs against West Oxfordshire District Council.
 - The appeal was against the refusal of planning permission for removal of existing workshop and erection of single storey replacement building to form garden room.
-

Decision

1. The application for the award of costs is dismissed.

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 PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant claims that the Council failed to provide suitable evidence to support their reason for refusal and, as part of their submission, sought to introduce new evidence in relation to the use of the appeal site.
5. In terms of the issue of substantiating the reason for refusal, I note in this regard that the Council Officers recommended that planning permission be granted for the proposal. Whilst Council Members are not duty bound to follow the advice of their professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this instance, it will be seen from my decision on the appeal application that, whilst I do not find the proposal would result in unacceptable noise levels, or cause parking issues, I agree with Council Members that there were sufficient grounds for refusing planning permission on the basis of its impact upon the living conditions of surrounding residents. It therefore follows that I am satisfied that the Council has shown that it was able to substantiate its reason for refusal.

6. In their statement, the Council have submitted a substantial amount of information and gone into great length on the existing use of the building and, in particular, have questioned whether a change of use has occurred. Given the lengthy nature of the information, the appellant felt obliged to respond and rebut these submissions. As will be seen from my main decision, I consider that it is clear from both the description of development on the application forms and the supporting documents, that the appeal application was solely for a new garden room. The purpose of the appeal was to consider the merits of that specific proposal and not any other elements.
7. Despite the submission of the information, to my mind however, whilst I do not seek to question the claims made by the appellant in regards to the discussion of the appeal application at Planning Committee, in their reason for refusal, the Council clearly set out their concerns and made no obvious reference to a change of use having taken place. Therefore, whilst I agree to some extent with the appellant that the Council's focus on the use of the property has somewhat confused the issues, it is clear from the reason for refusal that they considered the proposal upon its merits and, within their statement, explained these.
8. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Adrian Hunter

INSPECTOR