
Costs Decision

Site visit made on 17 August 2016

by Elizabeth Pleasant DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31st August 2016

Costs application in relation to Appeal Ref: APP/A2335/D/16/3152091 38 Hest Bank Lane, Hest Bank, Lancaster, Lancashire LA2 6BT

- 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 Paul Newton for a full award of costs against Lancaster City Council.
 - The appeal was against the refusal of planning permission for construction of a first floor balcony to the rear elevation with obscure polycarbonate block wall to side.
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Decision

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

Reasons

2. Planning Practice Guidance advises that irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. The appellant submits that the Council acted unreasonably in refusing the application and thereby caused the appellant unnecessary time and expense in pursuing this appeal. It is claimed that no robust evidence was presented at the Committee Meeting or recorded in the Committee Minutes that indicates that the Council's Decision was based on an objective assessment and the Council has not supported its reason with any objective analysis nor provided a detailed justification for its decision to refuse planning permission contrary to the case officer's recommendation. Furthermore the Council has offered no explanation for the inconsistency in its decision making or acknowledged that it has granted permission for a similar scheme at No 44 Hest Bank Lane.
 4. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they prevent or delay development which clearly should have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations, or provide vague, generalised or inaccurate assertions about a proposals impact, which is unsupported by any objective analysis.
 5. In this case I have noted the recommendation of the Council's Officer. However, the decision is one of a matter of judgement and the Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made by them for the contrary view.
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6. The reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It is also clear from the Committee Minutes that Council Members deferred making their decision until they had had an opportunity to visit the site. They would therefore be fully aware of the individual characteristics of the appeal site and the proposed development. Furthermore, the decision notice clearly states the policies of the Lancaster Local Plan Development Management DPD that the proposal would be in conflict with, as well as citing conflict with the National Planning Policy Framework.
7. I have no evidence before me to confirm whether or not the Council took into consideration the existing balcony at No 44 Hest Bank Lane; however this property is clearly visible from the appeal site which they visited, and in any event each application must be considered on its own merits.
8. It will be seen by my decision that I did not agree with the Council's decision, however I am satisfied, for the reasons given above, that the Council has adequately substantiated its reason for refusal.
9. I therefore conclude unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated, and an award of costs is therefore not justified.

Elizabeth Pleasant

INSPECTOR