

Costs Decision

Site visit made on 22 September 2016

by P Eggleton BSc(Hons) MRTPI

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

Decision date: 28 September 2016

**Costs application in relation to Appeal Ref: APP/B3030/D/16/3153486
The Old Vicarage, Church Lane, South Scarle, Nottinghamshire NG23 7JP**

- 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 B Mason for a full award of costs against Newark and Sherwood District Council.
 - The appeal was made against the refusal of planning permission for a garage, lean-to building and all associated external works.
-

Decision

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

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. It is alleged that the Council failed to clearly demonstrate why the proposal was unacceptable; failed to explain why the advice of officers was disregarded; and failed to provide clear evidence to substantiate the reasoning for the decision. It is suggested that although the decision made reference to a previous appeal decision for a dwelling, that development is not comparable with this proposal. It is alleged that it is inappropriate for a previous refusal to be referred to unless there are clear and demonstrable similarities between the proposals.
 4. The reason for the refusal of the development contains information regarding a previous appeal but in general, it is clear that in the planning authority's view, the siting, design and scale of the building would result in it being unacceptably prominent and cramped, placing built form within a grouping of well-defined and legible buildings and as such, it would result in harm to the conservation area.
 5. The decision was taken following a site visit by the Councillors. The decision took account of a previous appeal and I have no reason to believe that the Councillors were not fully conversant with the differences between the schemes. A decision in relation to the access had also altered the character of the site and I have no evidence to suggest that this was not correctly taken into account.
-

6. Although I have reached a different conclusion and the Council's officers also accepted that no harm to the conservation area would result, this is a matter of judgement. The concerns of the Committee are clearly set out in the minutes and the decision notice. I am not persuaded that they acted unreasonably in reaching their decision. They found that harm would result and it is clear that they did not consider there to be considerations that outweighed that harm.
7. Concern has also been raised with regard to the conduct of a member of the Planning Committee who was absent from the meeting. It is apparent that the Council had regard to this conduct and sought to address the implications of it at the meeting. Given the near unanimous decision, I am not satisfied that it is likely that this conduct led to a different outcome. Whilst the actions reported may represent unreasonable behaviour, I am not able to conclude that without such actions, there was a clear likelihood that permission would have been granted and the appeal avoided.
8. Overall, I consider that the Council were entitled to reach the decision that they did and I am not persuaded that the costs of the appeal would have been avoided had the correct procedures, prior to the committee meeting, been more rigorously followed. I am not therefore able to conclude that unreasonable behaviour resulting in unnecessary and wasted expense, as described in Planning Practice Guidance, has been demonstrated. A full award of costs is not therefore justified.

Peter Eggleton

INSPECTOR