

Costs Decision

Site visit made on 12 October 2016

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 1st November 2016

Costs application in relation to Appeal Ref: APP/A2470/W/16/3153613 Clatterpot House, 4 Clatterpot Lane, Cottesmore, Rutland LE15 7DW

- 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 Jon Gibbison, Hereward Homes for a full award of costs against Rutland Council.
 - The appeal was against the refusal of planning permission for the construction of 2 x 3 bedroom detached houses. One with integral garage and one with a detached garage.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 applicant has suggested that pre-application advice provided by the Council was positive and there was an unreasonable change in approach while considering the application which resulted in refusal of the proposal. The applicant has argued that it was unreasonable of the Council to alter its position when there had been no material change in circumstance between the pre-application advice being given and when the application was submitted.
 4. Informal pre-application advice is given without prejudice to the determination of any subsequent application and cannot pre-determine the outcome, which must take account of all material factors. This is made evident in the correspondence I have seen from the Council to the applicant. Notwithstanding this, the advice given highlights the importance of the wall to the character of the Conservation Area and makes it clear that should an application be made, further justification for the location of the access would be required. The Council considered the information that was provided and concluded that the impact of the development on the wall and character of the area would be unacceptable. In line with the requirements of the National Planning Policy Framework, the Council also considered whether the benefits of the development would outweigh the harm caused by the development.
 5. While I appreciate the outcome of the application will have been a disappointment, I do not consider the informal advice was misleading or that the subsequent refusal of the application amounted to unreasonable behaviour.
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6. The applicant has also expressed concerns regarding the time taken to determine the application. They have suggested that there was a deliberate delay to ensure the scheme would qualify for the recently adopted Community Infrastructure Levy (CIL) charge. I have seen no evidence that would lead me to conclude there was any deliberate delay in the consideration of the application or that the CIL had any influence on its determination. As the application was refused, there were no unnecessary expenses associated with CIL. Furthermore, even if there was any delay in the determination of the application, there is no evidence to suggest it had any bearing on the outcome. Therefore, it would still have been refused and the appeal would still have gone ahead. Again, there is neither evidence of unreasonable behaviour or of wasted expense in this regard.
7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense has not been demonstrated. For this reason, an award for costs is not justified.

S J Lee

INSPECTOR