The Planning Inspectorate

Costs Decision

Site visit made on 21 November 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 8th December 2016

Costs application in relation to Appeal Ref: APP/Y3425/D/16/3157818 Bankside, Barton Lane, Bradley, Staffs ST18 9EF

- 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 & Mrs Mark Phillips for a partial award of costs against Stafford Borough Council.
- The appeal was against the refusal of planning permission for single storey front and rear extension along with internal alterations and minor alterations to elevations.

Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes substantive matters including the failure to produce evidence to substantiate a reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

4. The application for costs relates to the substantive matters listed as examples above. The Council's reason for refusal consists of two distinct elements with respect to the effect on the living conditions of occupiers of neighbouring properties; firstly in terms of the massing of the rear extension and overshadowing upon Barton House, and secondly, the unacceptable level of overlooking and consequent level of privacy resulting from an open seating area. The application for a partial award of costs relates to only the first element of the reason for refusal.

5. In my appeal decision, I concluded that the proposed development would be harmful for reasons identified in the second part of the reason for refusal. Consequently, expense incurred in pursuing the appeal generally cannot be considered to be wasted or unnecessary.

6. Further to the above, the first part of the reason for refusal relating to the massing of the rear extension and overshadowing has been substantiated with respect to the decision of Planning Committee which was informed by a site visit. Minutes of the Planning Committee meeting identify the circumstances

which influenced the decision relating to the impact of the development, including the difference in land levels, increased massing, closer proximity to Barton House and representations made at the meeting.

7. It will be seen from my decision that I take a different view to the Planning Committee relating to the first part of the reason for refusal and found no harm in that respect. However, this reflects a matter of judgement, whereby I do not consider that the Planning Committee was unreasonable in offering a different view even though contrary to officer recommendation and advice at the Committee meeting. In this regard, I consider it reasonable that little weight had been offered in the Council's decision to any fallback position afforded by permitted development rights in the GPDO[1] for reasons stated in my decision. The outcome of the appeal also reflects different circumstances whereby a fallback position, to which greater weight can be attributed, now exists following planning permission having been subsequently granted for a similar development.

8. With regard to the above, not determining planning applications in a consistent manner and granting planning permission for a development similar to the appeal proposal would ordinarily run the risk of a costs award. However, in this particular case, I do not have sufficient evidence before me of the circumstances which led to the grant of planning permission to conclude that the Council have behaved unreasonably. This includes whether the Council's most recent decision was influenced by a change in circumstances, including the submission of the applicant's grounds of appeal which preceded it, or alternatively additional evidence. It, therefore, follows that I cannot determine that there was unnecessary or wasted expense as part of the appeal process as a result.

Conclusion

9. I conclude that, on the basis of the evidence before me, it has not been demonstrated that the Council behaved unreasonably or caused unnecessary or wasted expense in so far as an award of costs could be justified. I, therefore, determine that the costs application should fail and no award is made.

Gareth Wildgoose

INSPECTOR

[1] Town and Country Planning (General Permitted Development) Order 2015