
Costs Decision

Site visit made on 4 January 2017

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 20 January 2017

Costs application in relation to Appeal Ref: APP/P3040/W/16/3160679 York House, Chapel Lane, Aslockton, Nottinghamshire NG13 9AR

- 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 David Morton for a full award of costs against Rushcliffe Borough Council.
 - The appeal was against the refusal of planning permission for construction of new dwelling including landscape and means of access.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that 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. The Guidance also states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal on appeal or prevent or delay development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations.
3. Planning authorities are not bound to accept the advice of their officers, but if such advice is not followed, authorities will need to show reasonable grounds for taking a contrary decision and produce evidence to substantiate each reason for refusal on appeal. As I have set out in my decision, I found merit in the Council's concerns regarding the effect of the proposed development on the Norway Maple tree, identified as an important tree in the Conservation Area, and it therefore follows in this regard that the Council's Planning Committee did not act unreasonably by citing this as a reason for refusal, albeit one not shared by its officers.
4. In respect of the effect of the proposed development on the area's character and appearance, the Council officers' views was that proposed development would not appear incongruous amongst the locality, where dwellings and plot sized are mixed, and as such it would have a preserving effect on the Conservation Area. However, the Council's Planning Committee ultimately found that the harm associated with the site's location adjacent to larger plots carried greater weight. Although in my decision I did not share the Planning Committee's view, it is a matter of judgement and I consider that the evidence

it has produced provides a respectable basis for its stance. I do not find that the proposal was assessed inaccurately or the decision taken unreasonably.

5. I do, however, find the Council has not substantiated its objection in respect to highway concerns, particularly given that the access is already in-situ. I find that the Council has acted unreasonably in this regard. However, the appellant has spent little time defending this issue, and I am satisfied that its inclusion as a reason for refusal did not materially alter or detract from the main issue in respect to the effect of the proposed development on the character or appearance of the Aslockton Conservation Area. Accordingly, the unreasonable behaviour did not lead to wasted expenditure on the appellant's part.
6. Therefore while officers' views were not followed by the Council's Planning Committee, for the reasons set out above I do not find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated. The application for an award of costs is therefore refused.

R Allen

INSPECTOR