
Costs Decision

Site visit made on 17 January 2017

by Mike Hayden BSc DipTP MRTPI

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

Decision date: 3 February 2017

Costs application in relation to Appeal Refs: APP/Z2830/W/16/3157977 and APP/Z2830/W/16/3157987

Hillcrest, Careys Road, Pury End, Northamptonshire NN12 7NX

- 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 Mrs R. de Courcy Ireland for a full award of costs against South Northamptonshire Council.
 - The appeals were against the refusal of planning permission to take down existing housing and build new house on existing site (3157977) and to replace existing flat roof on garages with a pitched roof (3157987).
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Claims can be procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal.
3. In this case the application for an award of costs is both a procedural and substantive claim. In summary, it has been made on the grounds that the Council failed to exercise their development management responsibilities; did not provide reasons for refusal which stand up to scrutiny or could be understood; refused to accept the Structural Engineer's advice as independent; and during the application processes did not give proactive, practical or clear design advice in line with local or national guidelines, co-operate effectively in discussions over the design of schemes, or keep to timescales.
4. Whether or not the Council exercised their development management responsibilities appears to be an overarching issue within the claim, covering all of the other procedural and substantive points. I have therefore dealt with this at the end of my decision. In terms of the reasons for refusal for both appeals, I find that these are detailed, understandable, capable of scrutiny, based on the planning merits of the cases and have been substantiated by the Planning Officers' reports and the Council's appeal statement. For both applications the Council has explained what it considers the harm to be and where the proposals conflict with the development plan and national planning policy.
5. With regard to the structural survey, from my reading of reason for refusal 1 in application S2016/0143/FUL, the issue appears to be the absence of a

structural survey to prove the existing dwelling is structurally unstable and beyond economic repair, rather than whether the survey undertaken by the appellant was independent. The Council maintain that a structural survey was not submitted with the application. I have not been provided with a copy of the survey and seen no evidence to prove that it was submitted. In the event, as explained in my decision on the appeals, I did not consider the structural condition of the building to be determinative. However, if evidence was not provided to the local planning authority on structural stability and economic viability, I do not consider it was unreasonable for the application to be refused in part on this ground given this is one of the tests in saved Policy H6 of the Local Plan.

6. In respect of the application processes, I have considered the correspondence made available to me revealing the discussions and exchanges which took place between the Council and the appellant during 2015 and 2016 at the pre-application stage and during the course of the applications. It is clear from this that there is a difference of opinion between the Council and appellant about the appropriate design of the proposed new dwelling, which is firmly held by both parties. The debate has been between a traditional approach sought by the Council and a more modern interpretation preferred by the appellant. The Council set out its objections to the scheme in its pre-application report in August 2015, which stated that it could not support the proposal as designed. Despite changes to the design made by the appellant, it appears that the Council's concerns with the bulk of the dwelling, the fenestration and materials have remained unresolved. Given my conclusion on the appeal I have similar concerns with what is proposed.
7. I can see that the dialogue between the Council and the appellant throughout this period may not have been continuous, although from the evidence submitted the reasons for any gaps between communications are not apparent. I also recognise that the process has been frustrating to the appellant, particularly the length of time it has taken and the fact that it has not been possible to persuade the Council to accept the proposed scheme. However, the Council has remained broadly consistent in its advice throughout and has assisted in offering advice on alternative design options. Overall, its actions during the processing of the applications do not constitute unreasonable behaviour.
8. Consequently, in the light of the evidence before me, I am satisfied that the Council has exercised their development management responsibilities properly.

Conclusion

9. On this basis, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the application for an award of costs fails.

M Hayden

INSPECTOR