
Costs Decision

Site visit made on 27 February 2017

by Michael Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 6th March 2017

Costs application in relation to Appeal Ref: APP/N4720/D/16/3165651 23 Adel Park Gardens, Adel, Leeds LS16 8BN

- 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 Stewart Sharp for an award of costs against Leeds City Council.
 - The appeal was against the refusal of planning permission for timber cladding to existing front and sides of existing front gable wall.
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Decision

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

Reasons

2. The *Planning Practice Guidance* ('the PPG') 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. Paragraph 047 of the PPG¹ states that local planning authorities are required to behave reasonably in relation to procedural matters at appeal, for example by complying with the requirements and deadlines of the process. Examples of unreasonable behaviour which may result in an award of costs include lack of co-operation with the other party or parties and delay in providing information or other failure to adhere to deadlines.
4. During consideration of the original planning application² for extensions to the appeal property there was discussion and written correspondence between the parties regarding the proposed timber cladding to the front gable. Following the omission of this feature, planning permission was granted. The applicant was also advised of options open to him to pursue the matter of the timber cladding, including resubmission and appeal.
5. Following submission of the further application now at appeal there was no discussion between the parties regarding the merits of the timber cladding, and the application proceeded to a decision. However, the Council's concerns regarding the timber cladding had been made clear during the processing of the original application, and there was therefore no obligation upon the Authority to discuss the matter with the applicant prior to reaching a decision on the second application.

¹ Reference ID: 16-047-20140306

² Council ref: 16/02212/FU

6. On this basis, and notwithstanding that it may have failed to respond to some requests for further discussion, the Council had made its views abundantly clear to the applicant. In all likelihood further negotiations would not therefore have been productive. Accordingly, the Council has not failed to co-operate with the other party or delayed the provision of information which might have averted an appeal. Its stance does not therefore amount to unreasonable behaviour in these respects.
7. Paragraph 049 of the PPG³ advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
8. The Planning Officer's report clearly sets out concerns regarding the proposed timber cladding. It cites the strong and attractive character of Adel Park Gardens which should be preserved where possible. It refers to the alien nature of the cladding which would fail to respect the existing property or the wider character of the site. The report also acknowledges nearby extensions and materials which do not respect the character and are harmful and incongruous, but notes that the Arts and Craft style - and particularly the rendered gable element - remains a positive characteristic of the street. In addition, the report addresses other examples of cladding within the street and surrounding area referred to by the applicant.
9. The associated reason for refusal states that *"...the use of timber cladding on the front gable of the attractive stone and render Arts and Craft style property will result in an incongruous and unsympathetic feature which will be harmful to the visual amenity and character of the existing property and the wider street scene"*.
10. Taken together, the documents clearly explain the Council's objections to the proposal by objectively and accurately analysing the visual impact of the development on the host property and the surrounding area.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Michael Moffoot

Inspector

³ Reference ID: 16-049-20140306