
Costs Decision

Site visit made on 6 February 2017

by **A J Mageean BA (Hons) BPI PhD MRTPI**

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/B3438/D/16/3162698 20 Folly Lane, Cheddleton ST13 7DA

- 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 S Smith for a partial award of costs against Staffordshire Moorlands District Council.
 - The appeal was against a refusal to grant approval required under Schedule 2, Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for a single storey rear extension.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The National Planning Practice Guidance (the NPPG) 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. Unreasonable behaviour may relate to aspects of the appeal procedures or be substantive in nature, relating to the merits of the appeal.
3. The application for costs has been made on the grounds that the Council has acted unreasonably by "*not determining similar cases in a consistent manner*".¹ More specifically, in a previous application relating to the same site the Council did not raise concerns about the effect on the occupiers of the neighbouring property at No 18 Folly Lane.² However, in the present case the impact of the appeal proposal on the occupiers of this property was a reason for refusal. As the appeal proposal was for a smaller extension than the earlier proposal the appellants argue that the introduction of a new reason for refusal was unreasonable and inconsistent behaviour.
4. Paragraph A.4 (7) of the General Permitted Development Order requires the local planning authority to consider the impact of the proposed development on the amenity of any adjoining premises when any owner or occupier of any adjoining premises objects to the proposed development. More specifically, if any adjoining neighbour raises an objection within the notification period, the local authority must take this into account and make a decision about whether the impact on the amenity of all adjoining properties is acceptable.³

¹ The NPPG Paragraph 049 Reference ID: 16-049-20140306

² HNT/2016/0021

³ *Larger Home Extensions: Neighbour Consultation Scheme*. Department for Communities and Local Government.

5. As an objection to the earlier application was received from the occupiers of No 22 Folly Lane, the Council was required to consider the impact of the proposal on the amenity of the occupiers of all adjoining properties, not just No 22. Whilst the Council did consider the implications of this proposal for the occupiers of No 18 Folly Lane, the impact was considered acceptable. As the appeal proposal is slightly smaller than this previous application then the Council has acted inconsistently in concluding that it has a greater impact on the occupiers of No 18.
6. In these circumstances, whilst the appellants may not have been put to large amounts of additional expense in countering the Council's position, extra costs were incurred. An award of costs relating to the costs of challenging the reason for refusal relating to the effect of the proposal on the living conditions of the occupiers of No 18 Folly Lane is therefore justified.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has been demonstrated and that a partial award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Staffordshire Moorlands District Council shall pay to Mr & Mrs S Smith, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in defending the proposal in terms of its impact on the occupiers of No 18 Folly Lane.
9. The applicants are now invited to submit to Staffordshire Moorlands District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

AJ Mageean

INSPECTOR