
Costs Decision

Site visit made on 14 February 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 20 March 2017

Costs application in relation to Appeal Ref: APP/Y0435/W/16/3164179 37 Northampton Road, Lavendon MK46 4EY

- 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 Ben Brock for a full award of costs against Milton Keynes Council.
 - The appeal was against the refusal of planning permission for demolition of existing garage and erection of 2 of 1 & 1/2 storey dwellings, landscaping, parking and access to include new car port to No 37. To land to the rear of 37 & 41 Northampton Road, Lavendon MK46 4EY.
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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 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 49 of the PPG sets out examples of unreasonable behaviour by local planning authorities. These include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material consideration and failure by the planning authority to substantiate a stated reason for refusal of planning permission.
 4. The appellant states that the Council initially acted unreasonably in refusing planning permission and that this has led to the appellant to submit an appeal, resulting in unnecessary expense. The Council indicated in its reasons for refusal that there was limited information provided by the appellant at the application stage in order to fully assess the proposal, particularly with regard to a tree protection survey. Furthermore, the Council's reasons for refusal clearly stated that the proposal would appear conspicuous and result in a permanent weakening of the local character which would be contrary to policy.
 5. Whilst I have found that the information provided relating to trees was sufficient to assess the existing situation, further information is required through conditions to ensure that appropriate mitigation measures are in place. Notwithstanding this, I am satisfied that the Council's reasons for refusal clearly set out its justification for refusing the proposal. Therefore, I find that the refusal of planning permission is not unreasonable behaviour.
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6. The appellant states that the Council has not submitted an appeal statement or any further evidence during the appeal, other than the required questionnaire and documents. The Council is entitled to rely on its Officer Report and the submitted evidence in relation to the application stage to support its case and substantiate its reasons for refusal and, in this case, has elected to do so. This in itself does not constitute unreasonable behaviour, as set out in the PPG.
7. With regard to unnecessary or wasted expense, I note that the appellant commissioned a heritage impact assessment after the determination of the application and that this was submitted during the appeal process. Given the location of the proposal within a conservation area and its proximity to a listed building, such evidence would have reasonably been expected to be submitted at the application stage to assist the Council in assessing the proposal. As a result, I do not consider the provision of such evidence to be an unnecessary or wasted expense in this case.
8. Whilst the Council has not provided any further evidence during the appeal process to support its case, I find that the evidence submitted in relation to its assessment of the planning application provided sufficient reasoning and justification for its reasons for refusal which were clearly expressed. Although I have taken a different view to the Council and allowed the appeal, I find that the Council has not acted unreasonably in relation to preventing or delaying development which should clearly be permitted. Nor did the Council fail to produce evidence to substantiate its reasons for refusal.
9. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the application for costs is refused.

Andrew McCormack

INSPECTOR