
Costs Decision

Site visit made on 5 June 2017

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 21 June 2017

Costs application in relation to Appeal Ref: APP/E2340/D/17/3173584 21 Hollins Road, Nelson BB9 8JY

- 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 Abdul Majeed for a full award of costs against Pendle Borough Council.
 - The appeal was against the refusal of planning permission for a proposal described as "resubmission of a previous application. Width of side extension now reduced. This development includes front first floor extension above porch, two storey side extension and single storey rear extension".
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Decision

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

Reasons

2. The Planning Practice Guidance 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. The applicant considers that the Council has behaved unreasonably on three grounds.
4. First, preventing or delaying development which should clearly be permitted. However, as can be seen from my Appeal Decision, I agree with the Council's decision in relation to the extension to the front of the dwelling. Whilst I consider that the side extension should be allowed, I recognise that it is of an unorthodox design and I do not believe that the Council has behaved unreasonably in relation to this aspect of the proposal.
5. The applicant has also expressed concern that the appeal proposal was refused on design grounds, whereas a previous application was refused solely due to the effect on the amenity of neighbouring occupiers. However, it is apparent that the appeal proposal underwent an extensive process of consideration by the Council, including at least two different committee meetings and a site visit. Members were also made aware of the reason for refusal of the previous application in the Officer's report. I have not been provided with substantive evidence in relation to the previous application or the process undertaken by the Council when considering it. However, it may be that the extensive process leading to the decision on the appeal proposal identified issues that were not initially of concern to Members. The decision process indicates that Members did not take consideration of this proposal lightly, and in the absence

of evidence to the contrary I do not consider that the Council has behaved unreasonably in this regard.

6. Overall, in relation the first ground of this costs application, I do not consider that it is clear that the development should be permitted and that Council has therefore not behaved unreasonably in refusing planning permission.
7. Second, the applicant refers to a failure to produce evidence to substantiate each reason for refusal. However, the Householder Appeal Process does not enable the Council to provide a Statement of Case to make further representations. The Council has provided the Committee minutes in accordance with the Procedural Guide: Planning Appeals - England¹, although I acknowledge that the minutes could provide a fuller description of the reasons why the Committee went against the planning officer's recommendation. However, the minutes of meetings such as these are often a summary of the main issues and the decision taken rather than a detailed record of the discussion. Furthermore, the Council's concerns in relation to the proposal were specified in the reason for refusal.
8. Third, the applicant contends that the minutes and decision notice provide generalised assertions about the proposal's impact, which are unsupported by any objective analysis. As stated above, due to the Householder Appeal Process the Council is unable to provide a further objective analysis of their case. It is also inherent in a decision based on matters of character and appearance that this may be of a subjective nature. However, the Council's reason for refusal does provide more information in that it identifies poor design, incongruous appearance and setting as matters of concern. Whilst the wording of the reason is limited, I consider that this includes sufficient information to enable the applicant to respond to the Council's decision. I was also able to use the reason for refusal to assess the proposal and reach a conclusion on the appeal.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

David Cross

INSPECTOR

¹ Procedural Guide: Planning appeals – England 2016: Annexe C – Householder, advertisement and minor commercial appeals