



Costs Decision

Site visit made on 6 June 2017

by R Norman BA (Hons) MA MRTPI

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

Decision date: 18 July 2017

Costs application in relation to Appeal Ref: APP/D1590/W/17/3171461 88 Undercliff Gardens, Leigh-on-Sea, Essex SS9 1ED

- 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 Glen Cain for a full award of costs against Southend-on-Sea Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of a 3-bedroom house and erection of a 2-bedroom detached house.
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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 application was refused contrary to officer recommendation. The appellant maintains that Members took that decision without adequate reason to do so, without proper application of the relevant local and national planning policies and without clear and detailed evidence.
4. The Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. In this case, I have noted the recommendation of the Council Officers. The Council Members were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view. Whatever the discussion that took place at the planning committee, the eventual decision properly relied on relevant development plan policies, the Design and Townscape Guide and the National Planning Policies Framework, all of which were addressed in detail in the officer's report.
6. The Decision Notice contains a single reason for refusal based on character and appearance, which matters are largely subjective. Whilst the appellant may not agree with the weight that Members gave to the likely effect of the development on the character and appearance of the area, the decision turned on a matter of judgement. Whether or not I agree with the Council, its reason for refusal and the subsequent appeal statement clearly explained its concerns, drawing on appropriate development plan policies and valid material

considerations. There is no call in my opinion, to find the Council's behaviour unreasonable in this regard, merely that Members gave the issue a different weight from the officer.

Conclusion

7. Given the above considerations, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and the application for an award of costs does not succeed.

R Norman

INSPECTOR