



Costs Decision

Site visit made on 18 July 2017

by Darren Hendley BA(Hons) MA MRTPI

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

Decision date: 11th August 2017

Costs application in relation to Appeal Ref: APP/R1038/D/17/3174349 30 Commonsides Road, Barlow, Sheffield, Derbyshire S18 7SJ

- 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 Mrs Anne Todd for a full award of costs against North East Derbyshire District Council.
 - The appeal was against the refusal of planning permission for a proposed side extension at first floor level to form a new lounge and an ensuite bathroom to the bedroom
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may only 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 appellant's application for costs is based on the view that the appeal was unnecessary as the Council's decision was made against the recommendation of its planning officers and with a lack of evidence to substantiate the reason for refusal.
4. A planning decision is one of a matter of judgment and the Council Members are entitled not to accept the professional advice of their officers so long as a case can be made for a contrary view. The Council Members are also not bound by discussions which take place with the planning officer prior to the submission of the planning application as this cannot pre-determine the outcome of a subsequent application.
5. The Council's decision was based on the effect of the proposal on the character and appearance of the building and the area. The Council's reason for refusal itself is complete, precise, specific and relevant to the planning application, clearly explaining on what grounds the Council considered the proposal not to be acceptable. It also includes the policies of the North East Derbyshire Local Plan (2005) (Local Plan) which are of direct relevance to the appeal. The Council minute is consistent with the reason for refusal.
6. I can appreciate however that the appellant may feel frustrated that over development formed part of the reason for refusal, given this did not figure in the refusal of a previous larger scheme. I am not though convinced, in itself, this would have resulted in a different decision by the Council given that the

reason for refusal sets out a number of other matters in relation to character and appearance, and so it has not led to an unnecessary expense.

7. The Council is also not bound to refer to the National Planning Policy Framework in the reason for refusal, and the matters that paragraph 58 raise in respect of responding to local character are similar in any case to the Local Plan policies that were included in the reason for refusal. I also note the appellant's views about the how the Committee made its decision and the weight given to the views of local opposition. However, it is the prerogative of the decision maker to attribute weight to such considerations as they see fit and there is no substantive evidence before me that the Council's decision was based on anything other than objective analysis of the relevant merits of the case.
8. Whilst I have come to a contrary view to the Council, I am not persuaded that that the reason for refusal amounts to vague, generalised or inaccurate assertions about the proposal's impact. I consider the Council's case does not therefore amount to one that is unsubstantiated or lacks evidence.
9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not therefore justified.

Darren Hendley

INSPECTOR