
Costs Decision

Site visit made on 4 October 2017

by D J Barnes MBA BSc(Hons) DipTP MRTPI

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

Decision date: 25 October 2017

Costs application in relation to Appeal Ref: APP/J1535/D/17/3179940 Meadow View, High Street, Roydon, Harlow CM19 5EA

- 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 David Lawson for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for the insertion of dormer windows to existing roof line to achieve economic usability of existing bathroom and roof room.
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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 appellant is seeking an award of costs on procedural and substantive grounds. The procedural grounds are related to the failure to expediently register the appeal application and not contacting the appellant to discuss the application until the last day for its determination which made the appeal necessary. The substantive grounds are the Council's failure to properly consider the application, including matters such as a lack of objections from other parties, and take into account other schemes within the surrounding area, including other dormers. The appellant also claims that the reason for refusal was a 'cut and paste' from another application.
4. The Council considers the delay in registration is not of direct relevance to the appeal claim and, although the contact was made on the last day for determination, advice was provided to improve the scheme to overcome the objections. A period to extend the determination was offered to enable the amendments to be made. In response to the substantive grounds, the Council's objections to the application are claimed to be clear in the reason for refusal and the Planning Officer's report. The proposed development was assessed on its own circumstances rather than other schemes within the Roydon Conservation Area establishing any precedent.
5. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, the behaviour and actions of the Council in handling the planning application can be taken into account. In this case, the issue is the registration and validation of the application but this is a matter for the Council

who needed to be satisfied that accurate and scaled drawings were submitted. Once the Council was satisfied the application was determined within the statutory period.

6. Costs may be awarded in circumstances where a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal. However, even if there was a greater dialogue between the parties, based upon the Council's objections to the proposed development I do not consider that this is a case where the appeal would have been avoided. Although contact was made on the last day of the statutory period, it does appear that the Council did seek to discuss amendments to the scheme with the appellant and was prepared to allow an extension of time for the consideration of an amended scheme. The opportunity to avoid the submission of this appeal was not, therefore, taken by the appellant.
7. Whether the Planning Officer visited the property is unclear from the available evidence because it was only raised in the appellant's response to the Council's comments. The Council did not have the opportunity to respond to this claim and I cannot reasonably reach a conclusion on this matter.
8. Matters of judgement concerning the character and appearance of a local area and the need for specific evidence to be provided about the consequences of the proposed development. Vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis, are more likely to result in a costs award. In this case, although a different conclusion has been reached in the determination of the appeal and a scheme with dormers of a different design was approved in 2003, the application was considered on its own merits and the reason for refusal is clear that the Council's objection to the proposed dormers was because of their proximity to the ridge of the roof and the lack of alignment with the windows below.
9. The comments of the Conservation Officer do appear to include some matters not of direct relevance to the proposed development and are statements of design guidance. However, these comments are not included as part of the reason for refusal which is clear about the alleged harm. The absence of objections from other parties is not, by itself, an indication that the design of a scheme is acceptable and in accordance with relevant development plan or national policies.
10. The existence of other dormers within the Conservation Area adjacent to the property are not specifically mentioned in the Planning Officer's report. However, the concerns raised by the Council are specific to the property and the proposed development. It is likely, therefore, that the original application would have been refused due to the design objections identified in the reason for refusal. The submission of an appeal would still have been necessary.
11. For the reasons given, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and a full award of costs is not justified.

D J Barnes

INSPECTOR