
Costs Decision

Site visit made on 10 October 2017

by A A Phillips BA (Hons) DipTP MTP MRTPI

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

Decision date: 26 October 2017

Costs application in relation to Appeal Ref: APP/P4225/D/17/3180197 3 Johnston Avenue, Littleborough OL15 8RD

- 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 Louise Hollis for a partial award of costs against Rochdale Metropolitan Borough Council.
 - The appeal was against the refusal of the Council to grant subject to conditions planning permission for a two storey extension to the existing residential dwelling.
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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 appeal followed the refusal on 19 June 2017 of an application made on 8 April 2017 to extend an existing residential dwelling. The second reason for refusal was that the proposal would have an adverse impact on the amenity of the occupants of a neighbouring property through visual intrusion, overbearing impact and loss of outlook. My decision which accompanies this costs decision does not agree with the Council's assessment and allows the appeal.
4. The Planning Practice Guidance indicates that a local planning authority will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. In this particular case I consider that the Council has correctly applied separation distance standards set out in their Guidelines and Standards for Residential Development SPD Adopted June 2016 (the SPD) which clearly relate to developments which affect existing residential properties.
6. The appellant contends that the standards have not been applied to new buildings in the immediate vicinity of the appeal site and that there has been an inconsistent approach by the Council. However, I do not have the precise details of other developments in the locality, including the circumstances that led to permission being granted or the policies that applied at the time. I note that the SPD is a relatively recent document having been adopted in June 2016 and the Rochdale Adopted Core Strategy was adopted in October 2016. Therefore, it is highly likely that the Council's latest development plan and SPD

were not in place at the time of other decisions being made. Furthermore, each case should be assessed on its own merits.

7. Although the separation distances set out in the SPD seem to me to relate to protecting neighbouring occupants in terms of light and overlooking I do not consider it unreasonable for the Council to have also considered the effect of the proposal on outlook which is a legitimate material planning consideration. The Council's report has identified that they consider the proposal would have an overbearing impact by virtue of its massing, height, projection and proximity to the side boundary. Although I do not agree with the Council's reason for refusal there is justification for their position and no evidence that the second reason for refusal has been made without careful consideration and assessment of the proposal in the light of the development plan and other material planning considerations.
8. I see no evidence that the Council does not understand the basis for making planning decisions taking account of the development plan and all relevant material planning considerations.

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.