
Costs Decision

Site visit made on 14 November 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 24 November 2017

Costs application in relation to Appeal Ref: APP/L2440/W/17/3181417 253 Aylestone Lane, Wigston LE18 1BE

- 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 Saghir Osman for a full award of costs against Oadby & Wigston Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for double storey side extension, single storey rear extension, change of use from dwelling to flats x3.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Paragraph 030¹ of the *National Planning Practice Guidance* (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049² of the PPG states that local planning authorities are at risk of an award of costs if there is a failure to substantiate each reason for refusal on appeal, or making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant applied for extensions to a dwelling and change of use from a single dwelling to three self-contained flats. The application was recommended for approval by officers but was refused permission at Committee on the grounds that the number of units proposed, confined space for parking provision, limited bin storage area and materials used would represent over-intensification of development which would be out of keeping with the visual character and amenities of the area. The decision notice cited Policies 14 and 15 of the Core Strategy³ which require, amongst other considerations, development to respect local character, be sympathetic to its surroundings and reflect the prevailing quality, character and features of their locality.

¹ Reference ID: 16-030-20140306

² Reference ID: 16-049-20140306

³ Borough of Oadby and Wigston, Oadby and Wigston Core Strategy, Development Plan Document, adopted September 2010

5. The appellant argued that the Committee was unjustified in rejecting officer advice as the recommendation for approval had been based on a balanced assessment of the scheme's planning merits.
6. The Council did not provide an appeal statement to support their refusal. The supporting evidence provided at appeal comprised the committee report and the decision notice. The committee report alludes to a concern in relation to the living conditions of future occupiers in relation to amenity space but this is not mentioned in the decision notice. Consequently, I was unable to give this concern any weight in my reasoning. Furthermore, reference to an inadequacy in parking provision was unsupported by clear evidence of on-street parking stress or concerns raised by the highways authority.
7. Similarly, the decision notice refers to external building materials and provision for refuse bin storage. However, there was no evidence before me to indicate in what way the building materials or refuse bin storage were considered to be harmful to the character and appearance of the area. As such, although I visited the site and reached conclusions based on my own observations, in the interests of natural justice the scope of my reasoning was limited to a consideration of the issues raised by the Council.
8. I therefore conclude that the Council has acted unreasonably by failing to substantiate their reasons for refusal and this has led to the wasted expense of the appeal proceedings. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense at appeal has been demonstrated.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Oadby and Wigston Borough Council shall pay to Mr Saghir Osman the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The appellant is now invited to submit to Oadby and Wigston Borough Council, to whom a copy of this award has been sent, details of those costs with a view to reaching agreement as to the amount.

Amanda Blicq

INSPECTOR