
Costs Decision

Site visit made on 7 November 2017

by Darren Hendley BA(Hons) MA MRTPI

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

Decision date: 17th January 2018

Costs application in relation to Appeal Ref: APP/N4720/D/17/3180497 14 Stubley Farm Mews, Morley LS27 9ND

- 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 Mark Allen for a full award of costs against Leeds City Council.
 - The appeal was against the refusal of planning permission for the conversion of an integral garage to a habitable room without complying with a condition attached to planning permission Ref 16/07926/FU, dated 2 March 2017.
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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 garage which was proposed to be converted is sub-standard and therefore should not be counted as part of the appeal property's parking provisions, when the Council made its decision.
4. The appeal property has been subject to a number of planning applications for the conversion of the integral garage to a habitable room. It is apparent that various discussions have taken place between the appellant and the Council in relation to the parking space at the rear of the property, including its size and use, the dimensions of the garage itself in establishing that it was sub-standard with regard to the Council's parking guidelines, and concerning the application procedures.
5. However, in assessing whether a costs claim should be awarded the relevant consideration is the planning application which is the subject of this appeal. The Council was aware that the garage was of sub-standard size when it made its decision to refuse the planning application for the removal of the condition concerning the retention of the rear parking space. The Council's position on the parking space was clear and consistent in the determination of the planning application and, as such, I consider there was no procedural unreasonable behaviour that would warrant a costs award.

6. Although paragraph 033 of the PPG advises that behaviour and actions during the planning application can be taken into account, I also find the Council's stance that the parking space should be retained, despite the sub-standard size of the garage, not to be substantive unreasonable behaviour because the Council was concerned over highway safety, which is a valid planning consideration.
7. I have found in favour of the appellant with regards to my appeal decision. In coming to that decision, I had to consider whether or not the relevant planning condition met the tests, as set out in paragraph 206 of the National Planning Policy Framework (Framework). I considered that the condition was neither necessary nor reasonable. However, 'reasonable' in the context of the planning condition tests under the Framework has a different meaning to that which relates to the consideration of costs under the PPG which concerns procedural or substantive behaviour. I find that the Council has not acted unreasonably, with regards to the PPG advice on costs.
8. The appellant also considers that the Council's actions have affected their relations with their neighbours and caused a general detrimental affect due to the prolonged period over which matters have been ongoing. As set out in paragraph 027 of the PPG, an award of costs relates to the process by which the Inspector's decision is reached, and so these fall outside of where an award can be made. Similarly, as costs can only be awarded in relation to unnecessary or wasted expense at the appeal, this would not include the costs of the physical works related to the rear parking space.
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