
Costs Decision

Site visit made on 17 July 2019

by Mr M Brooker DipTP MRTPI

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

Decision date: 22 July 2019

Costs application in relation to Appeal Ref: APP/C1055/W/19/3226919 134 Mansfield Road, Derby DE1 3RA

- 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 Henryk Stojak for a full award of costs against Derby City Council.
 - The appeal was against the grant subject to conditions of planning permission for the installation of security shutters and installation of replacement front window and door.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) 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. Examples of unreasonable behaviour of the local planning authority include not determining similar cases in a consistent manner and where the Council has prevented development which should have been permitted.
3. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The main thrust of the Applicant's case is that the Council has failed to apply a consistent assessment of the application when compared to similar schemes nearby, unreasonably refused the planning application and took 18 months to determine the application.
5. The Applicant considers that this behaviour has led them to incur unnecessary delay and expense in having to appeal the refusal when planning permission should have been granted.
6. It is not clear from the evidence before me that the other security shutters on other properties referred to by the appellant benefit from planning permission, indeed the Council has referred to potential enforcement investigations and action.

7. The Council, in their Officer's report, have clearly had regard to these other security shutters and the benefit that the development brought with regards replacing the dilapidated shop front and have acknowledged the security benefits of the shutter.
8. In reaching my decision, it was clear that the merits of the proposal rested on a subjective opinion on whether or not the development would harm the character and appearance of the Conservation Area and if so whether the benefits of the security shutter remaining in place would outweigh this harm.
9. With regards the significant time that it took the Council to determine the application, it is accepted by the Council that there were delays in its determination of the application. Whilst I sympathise with the Appellant in that the application was not determined promptly. However, there is no substantive evidence before me suggest that the appeal would not have gone ahead or that a different outcome would have been arrived at if the application had been dealt with more promptly.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Mark Brooker

INSPECTOR