
Costs Decision

Site visit made on 20 August 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 6 September 2019

Costs application in relation to Appeal Ref: APP/N4720/D/19/3232340 30 Chapel Lane, Headingley, Leeds LS6 3BW

- 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 & Mrs Schorah for a full award of costs against Leeds City Council.
 - The appeal was against the refusal of planning permission for rear extension with paved areas, steps and railings.
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Decision

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

Reasons

2. Planning Policy Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance is clear that costs cannot be claimed for the period during the determination of the planning application but that all parties are expected to behave reasonably throughout the planning process. It goes on to confirm that costs can only be awarded in relation to unnecessary or wasted expense in relation to the appeal itself.
4. The appellants' application for costs relies on the basis that pre-application advice was sought for the proposed extension and that the response provided was positive, only for the application for planning permission to subsequently be refused. It is stated that, following the earlier refusal of planning permission for a previously submitted scheme, the appellants sought pre-application advice to provide reassurance over whether or not their proposal would be looked upon favourably. A favourable response provided the appellants with the confidence to submit a full planning application.
5. Informal advice given before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all material factors. The appellants acknowledge as much, and also that a Council may come to a contrary view to that provided within the pre-application engagement.
6. However, whilst I do not consider it unreasonable for an applicant seeking pre-application advice to expect to be able to place trust in the advice given and to take action and make decisions accordingly, it seems to me that the caveats to

pre-application advice were clearly set out by the Council. I have neither the previously refused proposal nor the scheme submitted for pre-application advice before me and so I have not firm basis to conclude that the informal advice given was so misleading as to amount to unreasonable behaviour on behalf of the Council.

7. Whilst I appreciate that the outcome of the application will have been a disappointment to the appellants, the Council were not unreasonable in reaching the conclusion that they did with regard to the planning application. Indeed, having carefully considered the proposal on its merits alone, I have concurred with the Council.
8. For the reasons I have set out above and having also had regard to all other matters raised unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. An award of costs is therefore not justified.

Graeme Robbie

INSPECTOR