
Costs Decision

Site visit made on 19 August 2019 by Hannah Ellison MSc BSc (Hons)

Decision by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2019

**Costs application in relation to Appeal Ref: APP/W0910/D/19/3230631
79 Romney Park, Dalton-in-Furness, Cumbria, LA15 8BN**

- 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 Jason Durkin for a full award of costs against Barrow-In-Furness Borough Council.
 - The appeal was against the refusal of planning permission for a two-storey side extension to provide a larger kitchen, utility and downstairs cloakroom to ground floor along with en-suite bedroom to first floor.
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Decision

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

Procedure

2. An Appeal Planning Officer has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons

3. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, 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.
4. The Guidance also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded.
5. The crux of the Applicant's case in seeking an award for costs appears to be grounded in substantive matters. Namely that the Council failed to determine the application against relevant policies and failed to sufficiently defend their decision through a lack of evidence and substance. Additionally, the Applicant feels the Council acted unreasonably during the determination of the application, particularly during the planning committee meeting.
6. The planning decision is one which is a matter of judgement and having regard to the Council's evidence in the committee report it is sufficiently clear to me

that their objections centre around the effect of the proposed development on the living conditions of adjacent occupiers. The Council's decision was clearly supported with substantive reasons based on the assessment of the site and interpretation of policy.

7. Whilst the failure to demonstrate consistency in decision-making can amount to unreasonable behaviour, the Council has indicated that there are clear distinctions between previous approvals in the area and the proposed extension. Indeed, I have found that the limited information submitted in respect of these cases did not demonstrate that they are directly comparable to the appeal proposal. As such I cannot reach the conclusion in this case that the Council acted unreasonably in this regard.
8. I note the applicant is aggrieved with the proceedings during the Council's Planning Committee meeting, particularly the refusal to grant the applicant additional time to present his case. Frustrating as such a circumstance can be, it is not unusual for a Committee to limit the amount of time each speaker is allowed. Further, the Council has their own internal complaints procedure to investigate such matters. Consequently, I cannot find this as unreasonable behaviour on the Council's part.
9. Turning to the Development Plan, paragraph 48 of the National Planning Policy Framework 2019 (the Framework) makes it clear that great weight can be given to relevant policies in emerging plans if the plan is at an advanced stage of preparation. I note at the time of decision the Inspector's report had been submitted to the Council and, subject to recommended modifications, the plan was to be formally adopted on 4 June 2019. Based on the evidence before me I am not aware that any amendments were made to the then draft policy H16. Therefore, due to the advanced stage of the plan, it was not inappropriate for the Council to have given great weight to emerging policy H16 of the Barrow Borough Local Plan 2016-2031. In accordance with the Guidance, the Council refused the application in accordance with development plan policy and no material considerations indicated that planning permission should have been granted.
10. It seems to me that there was a fundamental disagreement between the parties relating to the merits of the proposal and in particular the submitted daylight assessments. To my mind, those matters were unlikely to be resolved during the application process and thus could only be dealt with at appeal. As such, the appeal process was unavoidable and consequently there has been no unnecessary or wasted expense in making the appeal.

Conclusion

11. With the above in mind, I find that the Council has not acted unreasonably and thereby caused the applicant to incur unnecessary or wasted expense. A claim for costs is not therefore justified and accordingly it is hereby recommended for refusal.

Hannah Ellison

Appeals Planning Officer

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for an award of costs is refused.

Susan Ashworth

INSPECTOR