
Costs Decision

Site visit made on 3 September 2019

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Costs application in relation to Appeal Ref: APP/G2245/D/19/3232951 Lannacombe, 1 Harrow Road, Knockholt TN14 7JT

- 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 Langford Rae for a full award of costs against Sevenoaks District Council.
 - The appeal was against the refusal of planning permission for demolition of existing garage and workshop. Erection of part single part two storey extension with basement. New front porch and alterations to fenestration.
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Decision

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

Reasons

2. The Planning Practice Guidance (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. The application for costs seeks a full award on substantive grounds¹.
3. The appellant stated that the Local Planning Authority (LPA) was unreasonable and the refusal was unnecessary as the Council's Committee Members failed to take into account the technical and professional assessment by the Council's officers of the proposal's compliance with the development plan, national policy and other material considerations when reaching their decision and that there was vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis.
4. In this case, the reason for refusal has been adequately substantiated by the LPA in its officer's Committee report. The officer's report and the late observations to the Committee demonstrate the Council's view as to how the proposal would affect the living conditions of the occupiers of the neighbouring property, using the evidence and other material considerations submitted by the appellant, third party representations and the Council's observations. It clearly sets out the recommendations for approval by the officers.
5. However, this is a matter of planning judgement and the Council Members are not bound by the officers recommendations and professional advice, in making their final decision. In this instance, a case was made by the planning committee that the proposal was unacceptable and the reason for refusal set

¹ Planning Practice Guidance: Paragraph 049 Reference ID 16-049-20140306

out in the decision is complete, precise, specific and relevant to the application and has been adequately substantiated by the LPA. The reasons for refusal clearly state the policy of the Sevenoaks Allocations and Development Management Plan 2015 that the proposal would be in conflict with. It also clearly states the Sevenoaks Residential Extensions Supplementary Planning Document 2009 and the national policy in the National Planning Policy Framework as the appropriate supporting planning documents that the proposal would be in conflict with.

6. In addition, the appellant argued that the LPA failed to have regard to a previous planning permission for a substantially similar proposal on the site² and the type of extensions that can be built onto a dwelling house as permitted development under the General Permitted Development Order. The appellant also argued that inaccurate weight was given to a planning condition on a previous planning permission restricting the permitted development rights.
7. However, the extant planning permission, fall back position and the fact that the previous permission, including the planning conditions, were not implemented, were all acknowledged. These were covered by the LPA in the planning committee report, the late observations to the committee and the minutes of the planning committee. As such, I am satisfied that they had been taken into consideration. However, it is important that each proposal should be determined on its own merits.
8. I have noted the issues raised by the appellant regarding the way in which the application was processed by the Council. Whilst I appreciate the concerns raised regarding the wide ranging discussion by the planning committee and the conduct of the Members, these are not a material consideration to which I can attach significant weight in making this decision.
9. The LPA's submission and supporting evidence clearly shows that the LPA actively engaged with the appellant during the application process and carried out their duty to assess the development proposal as submitted.
10. It will be seen from my decision that I do not agree with the LPA on the merits of this development. However, these are matters of planning judgement based on an assessment of fact and degree of the effects on the main issue relating to the development. The LPA was entitled to form its own views about the impacts of the development even though, for the reasons set out in my appeal decision, I have reached a different conclusion on the planning merits of the case. Nonetheless for the reasons that I have given, I cannot agree that the Council has acted unreasonably in this case.
11. I therefore find that unreasonable behaviour by the LPA resulting in unnecessary or wasted expense which would lead to an award of costs, as described in the PPG, has not been demonstrated.

David Troy

INSPECTOR

² 16/01112/HOUSE