
Costs Decision

Site visit made on 14 August 2019

by E Griffin LLB Hons

An Inspector appointed by the Secretary of State

Decision date: 18 November 2019

Costs application in relation to Appeal Ref: APP/R0660/W/19/3229227 2a Clifton Street, Alderley Edge SK9 7NW

- 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 Paul Smith and Mauricio Rodrigues for a full award of costs against Cheshire East Council.
 - The appeal sought to remove the condition attached to planning permission ref 18/4792/M which was for replacement windows and conversion of garage to provide additional ensuite bedroom.
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Decision

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

Reasons

2. Paragraph 30 of the Planning Practice Guidance (the Guidance) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicants has made a claim for a full award of costs. The Council responded to the points made in the original claim for costs and the applicants then sent in a further response and stated that the key theme of their costs application is the lack of evidence to show that the Council considered all relevant planning matters.
4. The applicants set out a number of matters in their original claim for costs including the planning officer not assessing the proposal as dwelling; the wording from the GPDO not aligning with what was on the ground; imposing a condition impacting on amenity; the fact that windows were inward opening; verbal acceptance of obscuration film by the planning officer; a reluctance to accept samples of obscuration film and involvement by a councillor.
5. However, the extent of my remit is whether the conduct of the Council during the appeal process constitutes unreasonable behaviour which has directly caused another party unnecessary or wasted expense.
6. A number of the points raised relate to the conduct of the Council prior to the determination of the application which granted the applicants' planning permission with the condition which is the subject of the appeal. The Planning

Practice Guidance states that costs cannot be claimed for the period of the determination of the planning application.¹

7. The applicants believe that the planning officer did not take into account that the application related to an existing dwelling house. However, the Council's Committee report, the appeal documentation and the decision notice do not suggest that the application was assessed on any other basis than as a dwelling house.
8. The applicants consider that the condition that was imposed does not reflect the circumstances on the ground. However, the condition is a standard condition suggested by the Town and Country Planning(General Permitted Development) (England) Order 2015 in connection with alterations to dwelling houses. Whilst the applicants consider that the condition impacts upon the amenity of the appeal dwelling that was not considered by the Council, that is essentially a matter of planning judgement. I do accept that the Council's report was not particularly detailed but I do not find that it would constitute unreasonable behaviour that has resulted in the applicants incurring unnecessary expense.
9. All of the other matters raised in the original claim for costs including the involvement by a local councillor and the use of obscuration film refer to the conduct and actions of the Council prior to the determination of the application rather than during the appeal process. The applicants were aggrieved that they consider that the Council had changed its mind about allowing obscuration film rather than glazing and considered that the local councillor was involved in decision making. However, these matters essentially relate to internal processes of the Council rather than relating to issues that arose during the appeal process that constitute unreasonable behaviour and resulted in unnecessary expense.
10. The further detailed costs document of the applicants address each of the eight headings which the Council used in its response. The applicants consider that the Council has acted unreasonably and improperly, shown bias and a lack of reasoning. The applicants consider that the Council has used the costs process to introduce new arguments and that has prejudiced the applicant. However, the Council was entitled to respond to the detailed points put forward by the applicants.
11. The concluding paragraph of the applicants' original claim for costs is that the whole of the appeal process seems unnecessary and a waste of expenses. The Council were not unreasonable in granting the planning permission subject to a standard condition and following consideration of the application on its merits alone, I have agreed with the Council.

Conclusion

12. I therefore find that unreasonable behaviour as described in the Planning Practice Guidance has not been demonstrated and as such there can be no question that the applicant was put to unnecessary or wasted expense.

E Griffin INSPECTOR

¹ Planning Practice Guidance paragraph 032(Revision date 06.03.2014)