



Costs Decision

Site visit made on 29 October 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2019

Costs application in relation to Appeal Ref: APP/N2739/D/19/3235424 Hill House Cottage, Hall Lane, Newthorpe, Selby LS25 6JN

- 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 and Mrs Tomson for a full award of costs against Selby District Council.
 - The appeal was against the refusal of the Council to grant planning permission for two storey rear and single storey side extensions.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicants submit that the Council acted unreasonably because it failed to work proactively to find solutions to the proposal, nor provided them with an opportunity to amend the scheme or address any concerns before refusing it. The applicants also contend that the Council sought an extension of time, which led them to believe that the Council would seek further information and/or revisions where necessary.
4. I appreciate that Policy SP1 of the Selby District Core Strategy Local Plan (2015) indicates that the Council will approach decisions in a positive way, wherever possible. However, it is principally in order to secure developments that will improve the economic, social and environmental conditions of the area. I have found that the Council had reasonable concerns about the proposal's impact, which it evidenced in the Officer Report and clearly set out in the reasons for refusal. Consequently, it justified its decision, and, in this respect, I do not find that the Council behaved unreasonably.
5. In terms of the Council's approach to the application, I have nothing before me to substantiate the applicants' contention that, having regard to what would be permitted development and any extension requiring consent, a householder scheme can always be made acceptable. Moreover, whilst it might have been good practice for the Council to advise the applicants of their intention to refuse the proposal, it also has a responsibility to determine applications in a timely manner. It evidently did so before the expiration of the second extension of time agreement.

6. Furthermore, the PPG confirms that an extension of time can be sought if it becomes clear that more time than the statutory period is genuinely required¹. It does not infer the necessity for a revision or supplementation of application documents to be made. In any event, I am mindful that the extensions required the agreement of the applicants. The email request for the second extension of time also refers specifically to the Council's need to research the site's history. It equally provided the applicants with the opportunity to investigate it, particularly in respect of the extant permission, prior to the application being determined. The officer's report sets out a detailed analysis of the scheme and gives clear reasons for finding it to be unacceptable. There is therefore nothing to persuade me that the Council behaved unreasonably in this regard.
7. I understand that the decision of the Council will have been a disappointment to the applicants. Nevertheless, they could have gone back to the Council with additional information, including a revised design or legal mechanism to prevent the extant consent being fully implemented. Instead, they chose to pursue the appeal, but they did not choose to submit a legal agreement as part of the appeal to clarify their intentions in respect of the extant permission.
8. Consequently, the applicants have exercised a right of appeal and were able to provide additional information for me to consider. However, I have found that planning permission was not unjustifiably withheld. Furthermore, the parties are expected to meet their own costs in the appeal process, and I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated in this instance.
9. I therefore conclude that, for the reasons set out above, an award for costs is not justified.

Kate Mansell

INSPECTOR

¹ PPG Reference: Determining a planning application: Paragraph: 003 Reference ID: 21b-003-20140306