
Costs Decision

Site visit made on 9 December 2019 by Hannah Ellison BSc (Hons) MSc

Decision by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 06 February 2020

**Costs application in relation to Appeal Ref: APP/H4315/D/19/3237749
4 Central Avenue, Eccleston Park, St Helens, L34 2QP**

- 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 Andrew Conchie for a full award of costs against St. Helens Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for a front extension and two dormers to the rear roof plane.
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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 applicant's case for seeking an award of costs appears to be grounded in substantive matters, specifically that the Council failed to take into consideration the planning history of the site; did not determine the application against the correct plans and failed to take into consideration other examples of approved extensions.
6. Having regard to the Council's officer report, I note that there is no direct reference to an application approved in 2003 which altered the appearance of the appeal property. Additionally, the officer's report and reason for refusal refers to the appeal property as the 'original' dwelling. Nevertheless, it is

sufficiently clear to me that the Council assessed the proposal against the dwelling as it currently exists. The planning decision is one which is a matter of judgement and from the evidence before me it is clear that the Council's objections centre, in part, around the effect of the proposed development on the character and appearance of the host dwelling. This was clearly supported with substantive reasons based on the assessment of the site and interpretation of policy. As such, I find that the Council's failure to refer to an earlier approval would not have resulted in a different decision, in this case.

7. The appellant is also concerned that the Council did not determine the application based on the amended plans. The Council's officer report notes that amended plans were received during the application process. Indeed, it is also clear that the Council reconsulted on the amended plans. As such, whilst the dimensions of the original proposal were referenced within the officer report, and there were discrepancies in measurements on the amended plans, there is no doubt in my mind that the Council determined the application on the amended plans.
8. Whilst the failure to demonstrate consistency in decision-making can amount to unreasonable behaviour, the Council indicated there were 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.
9. I note there are fundamental disagreements between the parties relating to the merits of the proposal. 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

10. 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

Appeal Planning Officer

Inspector's Decision

11. 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