



Costs Decision

Site visit made on 4 February 2020

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2020

Costs application in relation to Appeal Ref: APP/P3040/D/19/3240528 The Hedgerows, Sutton Lane, Granby NG13 9PY

- 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 James Wilson for a full award of costs against Rushcliffe Borough Council.
 - The appeal was against the refusal of planning permission to erect a double garage with studio room above. Along with replacing old electric gates with a new cantilever gate. The works will require some tree and hedge trimming and removal. Done only sufficient to create new works.
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Decision

1. The award of costs is dismissed.

Reasons

2. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Local planning authorities are at risk of an award of costs against them where there is evidence of preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant's concerns are twofold and relate, firstly, to a concern that amendments to an original scheme¹, which sought to accommodate objections from the Council and third parties, were refused solely on the basis of the visual aspects of the development. Secondly, it is alleged that an individual Member of the Council and a former Parish Councillor, may have unduly influenced the decision-making process.
5. Following a first unsuccessful application¹ the applicant made amendments to reduce the scale of development and move it rearward within the site. It is suggested that these amendments were made in line with discussions that took place with the first case officer and in response to other objections. This would align with the National Planning Policy Framework's (the Framework) recommendation for early engagement between applicants and the local planning authority.

¹ 19/01354/FUL

6. However, in the absence of a formal record detailing any such discussions, I have no firm basis to ascertain what discussions took place or whether they might have amounted to unreasonable behaviour that ultimately led to wasted expense in the appeal proceedings.
7. Subsequently, in determining the revised scheme in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004, the Council has clearly set out its concerns and reasons for refusal against the policies contained within the development plan and the Framework. Whilst the reasons are limited to the visual aspects of the development, I find this to be a legitimate consideration under the terms of the referenced policies.
8. The applicant has also expressed concerns that individuals have unduly influenced the outcome of the planning application. In the absence of any firm evidence in this respect I am unable to establish the nature of any such influence, if it took place.
9. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and, having regard to all other matters raised, an award for costs is therefore not justified.

R Hitchcock

INSPECTOR