
Costs Decision

Site visit made on 16 June 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2020

**Costs application in relation to Appeal Ref: APP/W4705/D/20/3251031
17 Victoria Avenue, Ilkley LS29 9BW**

- 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 John Ogden for a full award of costs against City of Bradford Metropolitan District Council.
 - The appeal was against the refusal of planning permission for the construction of a car port to the side (north) of the existing detached garage and demolition of the existing garden outbuilding.
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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.
3. The application against the Council is made on substantive grounds, namely making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and, a failure to produce evidence to substantiate the reason for refusal on appeal.
4. The grounds for the claim centre on the applicant's point that the Council Officers took a different view from a previous identical application¹ submission and, as a consequence, a proper assessment was not made.
5. The relevant part of the costs regime, as is set out in the PPG, is concerned with the Local Planning Authority acting reasonably. Whilst I can understand why the applicant may feel some frustration, and notwithstanding that the Council has stated that a different Conservation Officer was involved, it is the Council which is responsible for its planning decisions as the Local Planning Authority, not the individuals concerned. With regard to the Council's position on both applications, it has been consistent in that both have been refused.
6. The reason for refusal on the decision notice is complete and refers to the relevant policies of the development plan, along with national planning policy and the Conservation Area statutory duty. The Planning Officer Report

¹ Council ref: 18/04200/HOU

- satisfactorily amplifies the reason for refusal in some detail in relation to the protected trees and the conservation area issues. Hence, it is clear where the concerns lie. This does not amount to vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, regardless of what the Officer views were on the previous application.
7. The same applies concerning the failure to produce evidence to substantiate the reason for refusal on appeal. The Planning Officer Report and the consultation responses provide sufficient evidence to substantiate the reason. In relation to the planning balance, the Planning Officer Report states that the replacement planting would not compensate for the loss of the mature pine. Thus, such a balancing exercise has reasonably been undertaken.
 8. Nor am I persuaded that the Council's original position not to determine the application subject of this appeal in light of the history of applications on the site has led to a particular injustice. This is because the outcome of the application would in all likelihood have been the same and necessitated the appeal.
 9. The applicant has also referred to the actions of the Area Planning Panel and the decision on the previous application. This has a limited bearing because the costs regime is concerned with the application that is the subject of the appeal, even if the proposals are essentially the same. Tree matters which have been raised which lie outside of the scope of the appeal also lie outside of what can be considered in terms of the costs regime.
 10. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not, therefore, justified.

Darren Hendley

INSPECTOR