

Costs Decision

Site visit made on 21 August 2020

by **R Walker BA Hons DipTP MRTPI**

Decision date: 17 September 2020

Costs application in relation to Appeal Ref: APP/K3415/W/20/3253183 22B Grange Lane, Lichfield, Staffordshire WS13 7EE

- 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 Lee McArdle for a partial award of costs against Lichfield District Council.
 - The appeal was against the refusal of planning permission for the alterations and extensions to existing dwelling and construction of new dwelling within curtilage.
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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 PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant submits that the Council has acted unreasonably, which has led to unnecessary or wasted expense in the appeal. The Council has defended itself in relation to all the allegations presented.
5. It is put to me that the Council made broad statements of harm in relation to outlook with no reference to the open plan nature of the rooms in question and other openings serving the rooms. Moreover, the appellant considers that the Council introduced a new issue in relation to the length of the garden which did not form part of the first reason for refusal.
6. Although the Council has not responded to all of the applicant's points regarding outlook it did seek to substantiate its position based on the resulting outlook from the proposed side windows and its interpretation of relevant policies and guidance. Moreover, it is not unreasonable for the Council to make an assessment on the effect on the living conditions of the future occupiers of the proposed development, as this exercises a certain amount of subjective judgement. As such, I do not agree that the Council acted unreasonably in refusing the application on this basis. I confirm in this regard that I have made my own assessment on this matter.

7. With regards to the external amenity space, it is clear from the Council's Officer's report for the planning application that it had concerns regarding the external garden amenity space. Whilst this was not pulled through into the reason for refusal, it was clearly an issue between the main parties and was addressed by the applicant in the appeal submissions.
8. Although the location of the appeal site in its residential setting has no material bearing on my assessment of the resulting living conditions, as can be seen in my appeal decision I also have concerns with the proposed external amenity space. I cannot therefore accept that this matter has led to any unnecessary or wasted expense in the appeal.
9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Robert Walker

INSPECTOR