



Costs Decision

Site visit made on 1 September 2020

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2020

Costs application in relation to Appeal Ref: APP/M3455/W/20/3249013 118 and 120 Ashford Street, Shelton, Stoke-on-Trent ST4 2EN

- 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 Sunshine Endeavours Limited for a full award of costs against Stoke-on-Trent Council.
 - The appeal was against the refusal of planning permission for a single storey rear extension to the rear of 118-120 Ashford Street (part retrospective).
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Decision

1. The application for an 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. The applicant's concerns are twofold and relate to the Council's consistency of decision making and conduct in assessing the development proposals that led to vague and generalised assertions.
4. During the appeal process, the main parties have referred me to a high number of successful and refused planning applications and some appeal decisions. These included cases with similar characteristics to the applicant's appeal.
5. On the raft of evidence before me it is clear that there is often a degree of tension between some of those decisions with fine margins between them. However, as I have identified in my decision, each case must be considered on its own merits and with regards to the relevant facts. It is therefore often a matter of finely balanced assessment. In this instance I find that the Council's report provided a clear assessment of the development proposals against the development plan, the Framework and other relevant material considerations. Accordingly, notwithstanding my conclusion based on weighted planning judgement, I cannot find that the Council's decision-making in this case has amounted to unreasonable behaviour.

6. The applicant also drew my attention to an appeal decision alluding to inconsistent decision making on the part of the Council. However, that instance referred to the refusal of an application on a site which had previously been granted planning permission for a substantially similar development. It is therefore distinct from the wider scope of decision-making across different sites.
7. The applicant states that the Council's case officer failed to visit the site to consider the proposals at first hand. The Council advise that determination was carried out with regard to information held by them including, then, recent photographic evidence collected within the determination period of the planning application.
8. Whilst it might be ill-advised for an officer to make a recommendation without the benefit of a first-hand site visit, it is not always necessary to do so. This has recently been demonstrated by the essential variation of working practises consequent to the Covid-19 pandemic lockdown. This has, on occasion, included decision-making on the basis of photographic information alone.
9. Additionally, I note from the correspondence between the main parties in the run-up to the application that considerable discussions took place and therefore familiarity with the case circumstances was likely. In the absence of evidence as to the exact extent of information available to the Council at the time of making their decision, I am unable to definitively conclude on this matter.
10. However, I find that the Council's assessment was otherwise fair and balanced and its report addressed the key matters arising from the proposals. This included consideration of the fall-back position stemming from potential alternative development under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
11. Accordingly, whilst I have subsequently found in favour of the development, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Hitchcock

INSPECTOR