



Costs Decision

Site visit made on 15 September 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2020

Costs application in relation to Appeal Ref: APP/J0540/W/20/3255684 2 Moggs Well Lane, Orton Longueville, Peterborough PE2 7DS

- 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 Mrs Dierdre Hardy for a full award of costs against Peterborough City Council.
 - The appeal was against the grant subject to conditions of planning permission for outline application for proposed bungalow with all matters reserved.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. The PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations.
3. In granting planning permission the Council accepted that the site could accommodate a bungalow, yet in attaching condition 7 made an assumption that a bungalow with any level of first floor accommodation or more than one bedroom would be harmful to the character and appearance of the area and neighbouring living conditions. These are matters which can only fully be understood at the detailed design stage and I have found that the condition is not necessary.
4. The Council's statement seeks to justify the element of the condition which restricts the number of bedrooms on the premise that it was necessary to maintain a functional and physical relationship between the bungalow and the existing dwelling on the site. However, regardless of the appellant's intentions in terms of the potential occupiers, the development that has been permitted is an independent bungalow. Attempting to justify the condition on these grounds is unreasonable and does not correspond with the reason for the condition given on the decision notice.

Conclusion

5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

6. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Peterborough City Council shall pay to Mrs Dierdre Hardy, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
7. The applicant is now invited to submit to Peterborough City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Russell

INSPECTOR