The Planning Inspectorate

Costs Decision

Site visit made on 11 February 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2021

Costs application in relation to Appeal Ref: APP/N4720/D/20/3261945
15 Belle Vue Avenue, Roundhay, Leeds LS8 2NN

- 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 J Dowse-Holmes for a full award of costs against Leeds City Council.
- The appeal was against the refusal of planning permission for single storey extension and new fence above both side boundary walls to rear.

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. It also states that examples of unreasonable behaviour by local planning authorities include 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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).

3. The applicant considers that the Council made their decision to refuse planning permission without evidence of the impact of the development particularly how it would cause excessive overshadowing. They also consider that the Council's refusal on the grounds of 'overdominance' was also made without a thorough examination of the existing circumstances of both the appeal site and neighbouring property no. 17 Belle Vue Avenue. Additionally, the appellant has pointed out that the Council made an apparent error in claiming that the proposed extension would be set to the west of no. 17 rather than the east. The Council have responded to this stating that the reasoning behind their decision is clearly stated in the Officer report and that they undertook a thorough examination of the application and undertook a site visit.

4. The Council's Officer report sets out in some detail their reasons as to why they considered the proposed development unacceptable. Therefore, while they did not produce any sun-path analysis drawings, it is still reasonably clear as to why they came to their decision in relation to potential overshadowing and the other related factors of potential loss of outlook and overdominance. It is also

clear that this decision was a matter of planning judgement taking into account the adopted development plan, other adopted guidance and other relevant material considerations including national policy.

5. I note that the Council appear to have made an error in relation to the positioning of the proposed extension. However, given that their reasons for finding the proposal unacceptable primarily related to the length of its projection along the common boundary with no.17 and its proximity to the rear window on the neighbouring property's rear elevation, I am satisfied that this was a simple error and not a deliberate attempt to exaggerate the potential harm that the proposal would cause. Additionally, potential overshadowing was not the only principal determinative factor in their overall decision as the proposal was also found to be unacceptable in relation to loss of outlook.

6. Therefore, in my overall planning judgement, it appears to me that having regard to the evidence before me the Council adequately explained the reasoning behind their decision. As a result, I find that the Council had reasonable concerns about the impact of the proposed development which justified their decision. The refusal of planning permission in this case therefore does not constitute unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the Guidance.

7. Accordingly, I consider that the Council did not prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

8. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated and that an award of costs is not justified.

C Coyne

INSPECTOR