
Costs Decision

Site visit made on 2 June 2021

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2021

Costs application in relation to Appeal Ref: APP/P3420/D/21/3269652

1 Orion Court, Newcastle Under Lyme ST5 2PN

- 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 Mohammed Khan for a full award of costs against Newcastle-under-Lyme Borough Council.
 - The appeal is against a refusal to grant planning permission.
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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 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. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The applicant contends that the Council has behaved unreasonably by refusing the planning application now subject of the appeal after an earlier grant of planning permission at the appeal property on a larger scale.
4. Prior to the appeal being lodged, two planning applications were submitted to the Council. The first was approved¹ subject to conditions for a garage conversion, two storey extension, loft conversion and single garage ('the approved scheme'). The second sought a non-material amendment². This was refused as the works shown in this scheme were judged to be, in the Council's opinion, larger in scale and more harmful in appearance than the approved scheme. Hence, the Council determined that this scheme went beyond what could be approved under this type of application. Therefore, it is the approved scheme that the applicant claims to be of a larger scale.
5. While the scheme subject of the appeal may be an evolution of the approved scheme and there may be elements which are the same in both schemes, there are also fundamental differences particularly relating to the loft conversion. These changes affect the external appearance of the dwelling and the internal use of it. They also have different impacts on the design of the dwelling and the character and appearance of the area through either dormer windows being

¹ Council Ref: 20/00525/FUL

² Council Ref: 20/00525/NMA

removed or added, with the latter in a different form and of a larger scale compared to the dormer windows permitted as part of the approved scheme. Given the differences, the Council was entitled to consider the appeal scheme on its own planning merits and that it has not behaved unreasonably in doing so as the Council clearly articulated their concerns with the appeal scheme to justify their decision and stance on appeal.

6. It follows that despite the applicant incurring costs throughout the planning process, these have not been as a result of any unreasonable behaviour on the Council's part. I should add that parties in the appeal process are normally expected to meet their own expenses.

Conclusion

7. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Andrew McGlone

INSPECTOR