



Costs Decision

Site Visit made on 22 June 2021

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2021

Costs application in relation to Appeal Ref: APP/N2739/D/20/3263421 4 The Crescent, Kelfield, Selby YO19 6RQ

- 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 Miss Sarah Finn for a full award of costs against Selby District Council.
 - The appeal was made against the refusal of planning permission for a two storey side extension via application Ref 2020/0510/HPA, dated 22 May 2020, via notice dated 27 August 2020.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance ('PPG') explains how costs may be awarded against a party who has behaved unreasonably, and thereby directly caused another party to incur unnecessary expense at appeal.
3. Paragraph 49 of the PPG¹ makes clear that local planning authorities are at risk of an award of costs if they refuse to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
4. The applicant's case for a full award of costs is that the Council failed to engage in a proactive manner with the applicant and did not explain why the application would be recommended for refusal. The applicant argues that this prevented them from modifying the proposal to address these concerns which could have avoided the need for this appeal.
5. I have been provided with a copy of an email from the case officer informing the applicant that the application would be recommended for refusal. The email outlines the reasons for this as 'a flat roof at two-storey would be unacceptable and due to the siting of the extension, to the side elevation of the host dwelling, it would have a detrimental impact on the character of the local area'. I also note that the applicant received advice over the telephone from the case officer prior to submitting the application. Whilst there appear to have been several instances of unanswered emails where communication could have been

¹ Reference ID: 16-049-20140306

better, I am satisfied that the Council positively engaged with the applicant both in terms of providing advice and advanced warning of a recommendation of refusal, with a reasonable level of detail. Furthermore, the email from the Council amounts to a summary of the eventual reasons for refusal, and, the applicant would have been open to submit amendments to address these concerns for consideration prior to the meeting.

6. The application was a revised application incorporating a number of sustainable construction techniques that followed an earlier approval of a more standard design. It was determined by Council Members at a planning committee. The applicant argues that Members were not informed of their reasons for submitting the revised application or that a supporting statement had been submitted. They also state the Council made no reference to sustainability policies SP1 and SP15 in their presentation. The applicant argues that had Members been aware of the applicant's willingness to amend the design, or the sustainable principles behind the application, they could have chosen to delegate the application to officers and an appeal would have been avoided.
7. In my view it is not the role of Council officers to explain why an applicant has submitted a revised application, and in any regard, Members will have been able to form their own view on why the application had been submitted upon reading the supporting statement that was circulated to them prior to the meeting. Whilst this supporting statement was not read out at the meeting, I note the letter to the applicant from the Democratic Services officer dated 19 August which advises that 'all such representations will be made available for public inspection on the Council's Planning Public Access System and/or be reported in summary to the Planning Committee prior to a decision being made. In this regard, I understand from the Council that the statement was added to the Council's website as well as being circulated to Members and as such would be in accordance with the procedure outlined in the letter. Whilst I understand that the statement was redacted by the Council through removal of an email to the Head of Planning, this, in my view, does not affect the content of the statement and it is plain upon reading that the applicant would consider revising their proposal. Members will have been aware of this in making their decision. As such, I disagree with the applicant and even if the redacted letter was circulated to Members, I do not believe an appeal could have been avoided.
8. With regard to referencing policies SP1 and SP15, I note that these are referred to in the Committee Report which Members will have had sight of prior to making their decision. The Council officer also advised Members of the presence of the green roof in their Committee presentation. The Committee Report describes the roof and the larch cladding and concludes that 'Having regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, the proposed two storey side extension, by reason of its design and use of materials would conflict with the local character and appearance of the area.' As such, considering the Committee Report alongside the decision notice, I am satisfied that the decision was reached following a proper consideration of the matter and that the reasons for refusal are sufficiently evidenced.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Martinson

INSPECTOR