



Costs Decision

Site visit made on 12 April 2021 by Darren Ellis MPlan

by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 August 2021

Costs application in relation to Appeal Ref: APP/N4720/D/21/3267819 5 & 6 Miles Hill Square, Miles Hill, Leeds, LS7 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 Mr G White for a full award of costs against Leeds City Council.
 - The appeal was against the refusal of prior approval for enlargement of a dwellinghouse by construction of additional storey; the development will go 2.65m above the highest point of the existing roof.
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Decision

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

Procedure

2. An Appeal Planning Officer has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons

3. The Planning Practice Guidance (PPG) advises that costs may only be awarded where a party has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The PPG advises that a local planning authority is at risk of an award of costs for 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.
5. In this case, the appellant contends that the Council made an error in the reason for refusal, erroneously assessed the proposal against the National Planning Policy Framework (NPPF), and required a document to be provided with the original application that only needs to be submitted before development commences.
6. Paragraph AA.2.(3)(a)(i) of Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) was cited in the reason for refusal instead of paragraph AA.2.(3)(a)(ii), although the Council acknowledge that this is an error. However, the wording of the reason for refusal and the Council's delegated report makes it clear that the proposal was considered not to satisfy paragraph

- AA.2.(3)(a)(ii). I therefore accept that this is a typographical error in the reason for refusal and does not constitute unreasonable behaviour
7. Paragraph AA.3.(12) of Class AA requires a local planning authority to (a) take into account any representations and consultations received, *and* (b) have regard to the NPPF so far as it is relevant to the subject matter of the prior approval, as if the application were a planning application. Although no representations or consultations were received by the Council in this case, this does not preclude section (b). In other words, the Council is required to have regard to both (a) and (b) and one is not dependent on the other. The Council was therefore correct to have regard to the NPPF.
8. In the reason for refusal, the Council did refer to the lack of a report detailing the management of the construction of the development. However, as set out in the appeal decision, paragraph AA.2.(3)(b) only requires such a report to be submitted before the beginning of the development. Furthermore, paragraph AA.3.(2) sets out the documents that must accompany an application for prior approval under Class AA, and a construction management report is not listed. As such, the Council were in error by referred to this report in the reason for refusal. However, this point did not, in itself, result in the refusal of prior approval and did not notably add to the costs related to the appeal. It seems to me that in this case there was a fundamental disagreement between the parties that could have only been resolved by appeal to consider the primary issue of the appearance of the proposal.
9. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Appeals Planning Officer

Darren Ellis

Inspector's Decision

10. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for an award of costs is refused.

Chris Preston

INSPECTOR