
Costs Decision

Site visit made on 31 August 2021 by Hilary Senior BA (Hons) MCD MRTPI

Decision by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2021

Costs application in relation to Appeal Ref: APP/W4223/D/21/3276154 2 Bucklow Close, Oldham, OL4 2NG

- 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 Dr Aleksandra Makojnik against the decision of Oldham Metropolitan Borough Council.
 - The appeal was against the refusal to grant prior approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a "single storey rear extension - Length: 3.8m, Height: 2.5m, Height to eaves: 2.0m - a timber roof over the existing patio supported on 3 timber posts and attached to the building rear wall, covered with polycarbonate, no walls."
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Decision

1. The application for a costs award is refused.

Appeal 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 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. Costs may be awarded to any party regardless of the outcome of the appeal.
4. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters, such as providing information that is shown to be manifestly untrue or inaccurate, or deliberately concealing relevant evidence. It also includes substantive matters, such as 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, or failure to provide evidence to substantiate the reasons for refusal.
5. The application for costs centres on the appellant's concern that the Council acted unreasonably in reaching its decision on the prior approval by not reflecting the pre application advice in the decision, and not communicating with the appellant when clarification was sought.

6. Whilst I have not had sight of the pre application advice, the guidance given to applicants is not binding on the Council. It is also unfortunate that the appellant did not receive the advice they sought from the Council regarding the application and decision. However, this does not amount to unreasonable behaviour.
7. In my appeal decision, I found that the proposal would not be development permitted under the GPDO and I dismissed the appeal accordingly. It therefore follows that approval was not unjustifiably withheld and the council did not prevent or delay development that should clearly have been permitted. A planning application, not an application for prior approval, will be necessary to determine whether the proposal would be acceptable against the development plan policies. Whilst I appreciate that the appellant does not agree with the outcome of the application, the Council did not behave unreasonably.
8. Consequently, the matter was one of a fundamental disagreement between the parties which could have only been resolved by way of an appeal. As such unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs on this issue is not justified.
9. For this reason and taking into account all other matters raised, I recommend that the application is refused.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

10. I have considered all submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree that the costs award should be refused.

Nick Davies

INSPECTOR