
Costs Decision

Site visit made on 12 October 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2021

Costs application in relation to Appeal Ref: APP/Z4718/D/21/3276359 1 Penn Drive, Hightown, Liversedge WF15 8DB

- 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 Reece Jagger for a full award of costs against Kirklees Metropolitan Council.
 - The appeal was against the refusal of planning permission for the erection of first floor extensions and other alterations to an existing bungalow.
-

Decision

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

Reasons

2. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Local planning authorities are at risk of an award of costs against them where there is evidence of 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. The applicant's concerns relate to the weight given by the Council to a potential fallback position under Class AA of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for a development with possibly greater effects than the proposed scheme.
4. I note that reference to a fallback position was included within the Council Officer's report and was discussed by the members of its Planning Sub-committee. It is a well-established principle that development permitted under the GPDO can provide a fallback position which should be considered and weighed in planning decisions.
5. For the purposes of the appeal, the applicant provided an example of a development he considers could be built under the Class AA provisions in the GPDO. However, Class AA development is subject to a condition that prior to the commencement of development the applicant must seek the prior approval of the Council. Amongst other things, this requires the Council to consider matters of design and amenity impacts.

6. An extension as demonstrated in the theoretical plan, could lead to objections on either of those grounds. Furthermore, whilst it is open to the appellant to seek the prior approval of the Council on those issues, there is little before me to suggest that has taken place. It is not therefore an established fallback position. As a theoretical prospect only, I find it was not unreasonable for the Council to afford that argument limited weight in their decision-making and in the particular circumstances of the case.
7. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

R Hitchcock

INSPECTOR