
Costs Decision

Site visit made on 11 October 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2021

Costs application in relation to Appeal Ref: APP/W2465/W/21/3277177 120 Cavendish Road, Leicester LE2 7PH

- 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 Singh for a full award of costs against Leicester City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for construction of new pitched roof to replace existing flat roof, and rear dormer windows to create (1 x 1-bed) flat (Class C3).
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. It has been alleged that the Council behaved unreasonably by not proactively engaging during the planning application process in the interests of seeking to resolve its concerns, by prolonging the decision process and thus delaying construction on site.
4. As indicated in the National Planning Policy Framework (July 2021), local planning authorities are expected to approach decision-making in a positive and creative way. The Council's apparent lack of direct communication with the applicant at planning application stage as well as its subsequent failure to come to a determination within the relevant timeframe sits uncomfortably against such requirements.
5. However, the Council has, in the context of a set timetable at appeal stage, been able to provide putative reasons for refusing planning permission. As will be seen from my decision upon the planning appeal, I have found that it was reasonable for the Council to identify the provision of unacceptable amenity space. Thus, whilst other identified concerns (including with respect to parking and refuse storage) could have been resolved satisfactorily through active negotiation and/or the imposition of planning conditions, it has not been clearly demonstrated that better communication with the applicant would have enabled the appeal process to be avoided. Importantly, development was not delayed that should clearly have been permitted.

6. I note here that any suggestion that the applicant was discriminated against at planning application stage has not been clearly substantiated.
7. For the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Thus, having had regard to all matters raised, an award of costs is not justified.

Andrew Smith

INSPECTOR