

Costs Decision

Site visit made on 1 November 2021

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2021

Costs application in relation to Appeal Ref: APP/M4510/D/21/3273496 40 Alwinton Terrace, Gosforth, Newcastle Upon Tyne NE3 1UD

- 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 Mark and Ms Susan Lee for a full award of costs against Newcastle-upon-Tyne City Council.
 - The appeal was against the refusal of planning permission for the creation of gable roof extension (as amended 25/01/2021 and supplemented with supporting information 10/02/2021).
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Decision

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

Reasons

2. 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.
3. The PPG indicates that local planning authorities are at risk of an award of costs if they behave unreasonably by, amongst other things, delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. It is not within the scope of this appeal to determine whether planning permission was required for the development. Had the appellant wished to make a case on the basis that planning permission was not required, other mechanisms were available. It is not therefore unreasonable for the Council to determine the planning application and make an assessment on the effect of the development as proposed, including matters relating to the living conditions of occupiers of the neighbouring property.
5. The Council's Officer Report clearly assesses the Shadow Report, did not dispute its findings and, although the Council noted there would be some additional shadowing, its reason for refusal was based on outlook.
6. It is not unreasonable for the Council to make an assessment on the outlook from the neighbouring property and it did seek to substantiate the assessment in the Officer Report. It will be seen from my appeal decision, that I found there would be an acceptable effect on the outlook at the neighbouring property. However, such a conclusion arises from matters of judgement on a

subjective issue relating to the proposal's impact, relative to the policies of the development plan. Consequently, irrespective of the outcome of the appeal, I cannot find that the Council behaved unreasonably, relative to the main issue, in offering a different view to my own.

7. The Council's Officer report did not refer to specific benefits of the scheme, including, amongst other things, allowing the applicant to make an efficient use of the home. However, I am mindful that there were limited benefits proposed by the applicant as part of the application. The Officer's report clearly acknowledges the support of the existing occupiers of the neighbouring property but stipulated that this did not outweigh its concerns on the effects on the current and future occupiers.
8. The Council assessed the effects of the proposal and considered it contrary to the development plan. There is no specific section, within the Officer's Report, assessing whether there were any other considerations that outweighed that conflict. However, there is no substantive evidence before me to indicate that the inclusion of such a section would have resulted in a different outcome to the determination of the planning application.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
10. Accordingly, I determine that the costs application should fail, and no award is made.

Mr R Walker

INSPECTOR