
Costs Decision

Site visit made on 9 November 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 10 December 2021

Costs application in relation to Appeal Ref: APP/B2355/D/21/3276448 4 Anderton Close, Rossendale, Lancashire BB4 7DW

- 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 and Mrs S and G De'ath for a partial award of costs against Rossendale Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for a residential annexe.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only 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 applicants consider the Council behaved unreasonably including by acting contrary to well-established case law; by refusing development on grounds relating to overdevelopment and harm to neighbouring residential occupiers; and by failing to consider whether the development could be made acceptable through the imposition of planning conditions.
4. The evidence with the appeal includes case law relating to ancillary residential accommodation. However, I am not aware that this was drawn to the attention of the Council during the processing of the planning application. Moreover, the appeal related to householder development such that there was no opportunity for the Council to comment on the appellants' appeal statement. I am not convinced that the Council behaved unreasonably by failing to explicitly take into account case law that was not before it as a material consideration.
5. The applicant considers that the ancillary use of the annexe could have been secured by the imposition of a planning condition. In this regard, the Council's Alterations and Extensions to Residential Properties A Supplementary Planning Document Adopted June 2008 (the SPD) indicates that where proposals for family annexes are acceptable then a condition or obligation will be applied to ensure that the annexe remains part of the original dwelling. However, the Council concluded that the proposal was not in accordance with the guidance in the SPD and it was not therefore acceptable. That I reached a different conclusion to the Council on this main issue, based in part on the further information provided, does not indicate that the Council behaved unreasonably.

6. The Council's second reason for refusal does refer to overdevelopment but it also refers to the design, scale and massing of the scheme and its failure to address the context and character of the site. Read alone or with the Council's officer report, it is clear that the Council did not refuse the application on grounds relating to the density of development but rather because it would harm the character and appearance of the host dwelling and the area.
7. The Council found harm to the neighbouring occupiers based on its assessment including a site visit and the evidence before it. In this regard, the plans do not illustrate the proposal in juxtaposition with the neighbouring property, either in plan or elevation form. The absence of harm is not obvious from the location plan. I reached a different conclusion to the Council, but with the benefit of information including the overshadowing analysis that was not before the Council.
8. Notwithstanding the concerns of the Highway Authority consultee, the applicants consider the parking and highway safety concerns could be dealt with by a planning condition. As can be seen from my appeal decision, I concluded that there was insufficient information to demonstrate this matter could be satisfactorily left to coverage by condition.
9. The Council's decision will understandably have been a disappointment to the applicants. The appeal provided the applicants with the opportunity to test the reasons for refusal and the submission of further information with the appeal has been sufficient to overcome some of the concerns. However, while I reached a different conclusion to the Council on some issues, nevertheless I found harm in others and I dismissed the appeal accordingly. Therefore, it does not follow that that the Council's refusal to grant permission prevented or delayed development which should clearly have been permitted, having regard to the development plan, national policy and material considerations.
10. The applicants will have incurred expense in the appeal process, but the parties are expected to meet their own costs in the appeal. In this case, it has not been demonstrated that the Council behaved unreasonably or that this resulted in unnecessary or wasted expense in the appeal process.
11. For this reason, I conclude that an award of costs is not justified.

Sarah Manchester

INSPECTOR