The Planning Inspectorate

Costs Decision

Site visit made on 9 December 2021

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Costs application in relation to Appeal Ref: APP/N4720/W/21/3281860
1 Park Gate Close, Horsforth, Leeds LS18 5SS

- 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 Stuart Marshall for a full award of costs against Leeds City Council.
- The appeal was against the refusal to grant approval under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for "enlargement of a dwellinghouse by construction of an additional storey; the development will go 2.5m above the highest point of the existing roof".

Decision

1. The application for costs is refused.

Reasons

2. Parties to a planning appeal are normally expected to bear their own costs, but costs can be awarded where the unreasonable behaviour of a party has caused another party to incur unnecessary or wasted expense in the appeal process.

3. In short, the applicant asserts that the Council failed to correctly apply the relevant requirements under Schedule 2, Part 1, Class AA of the GPDO in making its decision, and as a result, has prevented or delayed development that should clearly have been permitted.

4. As can be seen from my appeal decision, I have not accepted the applicant's interpretation that external appearance should be considered in isolation of its surroundings. Consequently, the Council did not behave unreasonably by taking account of the surrounding built context in its assessment of the proposal. Furthermore, having considered the submissions in relation to the external appearance of the proposed development, I have found that the proposal would be unacceptable, and I have dismissed the appeal accordingly. It follows that the Council did not prevent or delay development that should clearly have been permitted.

5. The Council did include the lack of a construction management report in the refusal reasons, which it later accepted was an error of interpretation of the legislation. This was unreasonable behaviour on the Council's part. However, this point did not in itself, result in the refusal of prior approval and the error was acknowledged at an early stage as part of good appeal case management. Moreover, the work related to this part of the appeal was very limited and the applicant was not put to significant wasted expense in this regard.

6. On the other matters raised, I do accept the point that one of the appeal decisions referred to in the Council's appeal submissions would not have been available to the Council when it made its decision, but neither this, nor the lack of reference to the appeal decisions in the Council's delegated report amounts to unreasonable behaviour.

7. Overall, whilst there has been some unreasonable behaviour on the part of the Council, I do not find any wasted expense as I am satisfied from the evidence before me that the application would have been refused anyway and an appeal could not have been avoided.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and therefore an award of costs is not justified.

A Caines

INSPECTOR