



Costs Decision

Site visit made on 7 December 2021

by Katherine Robbie BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th January 2022

Costs application in relation to Appeal Ref: APP/W4515/D/21/3282862 90 Malvern Road, Preston Grange, North Shields NE29 9ES

- 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 Ms Nigora Mavlonazarova for a full award of costs against North Tyneside Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for development which was described as *"We are planning to build an extension over the garage. Build one store there, which include 2 rooms- one small home office, guest room/home office and a bathroom. The entrance to the 2nd floor of the garage will be most likely from our garage and the second entrance from the house"*.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may 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 goes on to indicate that local planning authorities will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate a reason for refusal on appeal and vague generalised or inaccurate assertions about a proposal's impacts which are unsupported by any objective analysis.
4. The applicant states that the appeal was necessary because the planning application should not have been refused and that the reasons for doing so were unsubstantiated and unreasonable. Furthermore, the applicant asserts that the Council failed to take the sustainability benefits of the scheme into account, nor had they considered the possible fallback position of the appellant or the 'impetus' in the National Planning Policy Framework (the 'Framework') to use roof space more effectively and efficiently.
5. I consider that the reason for refusal set out in the decision notice is complete, precise, specific and relevant to the decision. It also clearly states which policies of the North Tyneside Local Plan that the proposal would be in conflict with and therefore the Council has not behaved unreasonably in that respect.
6. I do not agree with the applicant that the Council failed to take into account the sustainability implications of refusing the planning application. Planning law is

clear that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. It was the Council's assertion that the proposal did not accord with policies in the development plan and I have not been made aware that they had any compelling reason before them to consider that the sustainability implications put forward here outweighed the harm they felt was caused by the proposal.

7. I consider the same to apply to the consideration for the fallback position put forward by the applicant. Notwithstanding the lack of evidence before me of what such a development would look like, it would be the subject of separate Prior Approval process and therefore there is no certainty that it could indeed be implemented.
8. The appeal has not resulted in any unnecessary or wasted expense on behalf of the applicant, for example, they have not commissioned daylight tests that would have been unnecessary. Simply instructing an agent to undertake an appeal is not considered to be an unreasonable expense in this instance.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Planning Practice Guidance has not been demonstrated.

Katherine Robbie

INSPECTOR