
Costs Decision

Site visit made on 22 November 2021

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2022

**Costs application in relation to Appeal Ref: APP/N2739/D/21/3281293
The Cart Shed, Thorpe Hall Farm, Dam Lane, Thorpe Willoughby, Selby
YO8 9LU**

- 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 James Crickmore for a full award of costs against Selby District Council.
 - The appeal was against the refusal of planning permission for 'Erection of a single storey side extension and porch'.
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Decision

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

Reasons

2. Planning Practice Guidance (the 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 expense in the appeal process.
3. The applicant claims that the Council, in the absence of a relevant Supplementary Planning Document (SPD), has made a subjective judgement on the development; that it has failed to consider the similar materials and substantial size of the garages adjacent to the listed building, and has therefore applied policy inconsistently; and has failed to adequately justify the reasons for refusal of planning permission.
4. In response, the Council states that it has followed the correct procedures, both in the determination of the planning application and during the appeal process and has fully substantiated the reasons for refusal.
5. The Guidance provides that a local planning authority is at risk of an award of costs if it does not determine similar cases in a consistent manner. With regard to the effect of the proposal on the character or appearance of the host building, the surrounding area and the setting of the Grade II listed building, these matters are necessarily subjective and therefore assessing any effect is a matter of planning judgement. Whilst there is no relevant SPD, the Officer Report assesses the scheme against several development plan policies and finds compliance with some of these and conflict with others. The precise reasons for the Council's finding that the application would result in harm to the character and appearance of the host property, the surrounding area and the setting of the listed building, are clearly set out.

6. The applicant has referred to numerous examples of large house extensions elsewhere within the District, which the Council has approved. However, no substantive details have been provided of the nature of the other developments, their site circumstances or planning history, to enable a comparison with the appeal proposal to be made.
7. In relation to the garages adjacent to the listed rectangular range, these are detached structures rather than extensions and are significantly different to the appeal proposal. Moreover, I have not been provided with the background or circumstances which led to their approval. Based on the evidence, I am satisfied that the Officer Report shows that an analysis of the merits of the proposal was undertaken with regard to the specific site circumstances and its surrounding context. There is no specific evidence to show that the Council behaved inconsistently in dealing with the application.
8. I have reached the same decision as the Council regarding the merits of the proposal. That does not vindicate any procedure or reasoning on their part. However, it establishes that it is not the case that planning permission should clearly have been granted; the Council's decision stands scrutiny relative to the statutory approach to decision-taking. The dispute was a matter of planning judgement, rather than the applicant being forced into an appeal by consequence of unreasonable behaviour.
9. It therefore follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. The evidence does not justify either a full or partial award of costs. The application for an award of costs is refused.

M Ollerenshaw

INSPECTOR