



Costs Decision

Site visit made on 15 March 2022

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2022

Costs application in relation to Appeal Ref: APP/C2741/D/21/3286933 46 Markham Street, York YO31 8NR

- 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 D Freeman for a full award of costs against City of York Council.
 - The appeal was against the refusal of planning permission for a single storey side and rear extension.
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Decision

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

Reasons

2. 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. In this case the appellant argues that the Council acted unreasonably for two reasons. Firstly, the Council failed to consider carefully the amendments made to overcome the reason for refusal of an earlier application by setting the proposal away from the Eldon Street boundary. Secondly, the Council refused the application without notice despite the case officer indicating verbally that it was acceptable, thus denying an opportunity to submit further amended plans to arrive at an acceptable scheme. The Council therefore caused the appellant unnecessary expense in having to pursue an appeal.
4. However, the proposal was only set back from the Eldon Street boundary by 0.25 m, the thickness of the front boundary wall, which would itself be raised to a height of 1.4 m immediately in front of the extension. The amendment made to the previous application was thus minimal in this respect.
5. Whilst the lack of communication regarding the change of approach and the decision to refuse the application was certainly regrettable, in this instance the objections to the scheme were fundamental and not capable of resolution by further amendments without greatly changing the nature of the application. In the circumstances the action of the Council to refuse the application without notice was not unreasonable. The appellant could still have pursued negotiation to secure a permission via another application but chose instead to appeal and risk the associated expense.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

David Reed

INSPECTOR