



Costs Decision

Site visit made on 21 February 2022

by A.Graham BA(hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 31st March 2022

Appeal Ref: APP/C1950/D/21/3279552

46 Blakemere Road, Welwyn Garden City AL8 7PJ

- The appeal is made under section 78 of 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 Gavin Johnstone for a full award of costs against Welwyn Hatfield Borough Council.
 - The appeal was against the refusal of planning permission Ref 6/2021/0747/HOUSE, dated 7 March 2021, for erection of first floor side extension, ground floor side extension, ground floor rear extensions, first floor rear extension to facilitate loft conversion, fenestration alterations and replacement chimney.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may 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 is aggrieved primarily due to the allegation that, in the Appellant's opinion, the Local Planning Authority (LPA) did not engage in a positive and proactive way through negotiation on what the LPA considered was an unacceptable scheme. The Appellant is also aggrieved because they feel the overall scheme was not sufficiently assessed within the Planning Officer's report in terms of a fall back position and, presumably, due to the potential for beneficial change to the property through the current proposal.
4. The LPA have stated that their approach to decision making was clearly set out within the acknowledgement letter of the application and that proposals considered unacceptable as submitted would be determined in accordance with the Development Plan without negotiation. They also offer their assessment that the Officer's Delegated Report did represent a fair assessment of the proposal before the Council. The Council also point out their pre application procedure that was not undertaken whereby an element of feedback could have been given.
5. The National Planning Policy Framework (The Framework) outlines that Local Authorities should approach decision making in a positive and creative way. The Council, perhaps in an attempt to manage such expectations, clearly outlined the means through which decisions would be taken within their acknowledgement letter. In this case it appears to have been the Council's

- opinion that the scheme was unacceptable upon initial assessment and, as such, negotiation was not undertaken as per their acknowledgement letter.
6. Although some correspondence appear to have been sent by email, I do not consider that the issuing of a refusal notice in this manner constitutes unreasonable behaviour as both the initial acknowledgement letter explained this procedure and the pre application mechanism was not pursued by the Appellant.
 7. In terms of the assessing officer failing to take into account all the matters associated with the Appellant's fallback position etc, I consider that the overall assessment that was before me was fair and that the Officer acted upon an assessment of the whole case including the responses from the Council's expert heritage consultees. In this matter, I consider that the Case Officer did not act in an unreasonable manner.
 8. In assessing the Appellant's reasons for costs I consider that the Council have sought to manage both the requirements within The Framework and their own day to day management of active cases effectively. I also doubt whether any significant extra costs would have been avoided had negotiation been undertaken and the proposed scheme been modified.
 9. Although the ultimate refusal of planning permission did result in the need for this appeal and the costs associated with it I do not consider that the actions of the Council represent unreasonable behaviour as defined in the Planning Practice Guidance. For this reason, and having regard to all other matters raised, an award of costs is not therefore justified.

A Graham

INSPECTOR

Schedule of Conditions

1. The development hereby permitted must be begun before the expiry of three years from the date of this decision.
2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
3. The development hereby permitted shall be carried out in accordance with the approved plans: PGA031 Rev C and PGA032 Rev C both dated 16 February 2021.

End of Schedule