

Costs Decision

Site visit made on 28 April 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2022

Costs application in relation to Appeal Ref: APP/N4720/D/21/3287091 12 Lumby Close, Pudsey LS28 9JS

- 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 & Mrs Foy for a full award of costs against Leeds City Council.
 - The appeal was against the refusal of planning permission for a first floor side and rear extension.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 PPG outlines that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. One example of such unreasonable behaviour is preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. Although it can be seen from my decision that I disagree with the Council's determination, it does not amount to unreasonable behaviour. The reasons for refusal as set out in the Council's decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the Leeds Core Strategy and the Leeds Unitary Development Plan that the Council considered the proposal would conflict with. These reasons have been adequately substantiated by the Council in its Officer Report which demonstrates how they considered the proposal would be harmful to; the character and appearance of the host property and the surrounding area; and the living conditions of occupants of the appeal property with regard to outlook and light to bedroom 2.
5. In their costs application, the applicant refers to the matter of amenity (referred to in my decision as living conditions) of the appeal property not falling within the scope of the policies applied by the Council.

6. As it can be seen in my decision, I have found that the Council should not have applied Policy HPG2 of the Householder Design Guide to this matter, as the policy explicitly deals with the impact on neighbours. Policy P10 of the Core Strategy is however less specific. It requires development to protect, amongst other things, residential amenity, which would include that of the appeal property. Furthermore, the matter is covered by the National Planning Policy Framework (the Framework) that states planning decisions should ensure a high standard of amenity for existing and future users. I therefore do not consider that the Council acted unreasonably in refusing planning permission for this reason. The Council exercised its planning judgement in coming to this decision.
7. The applicant considers that the Council acted unreasonably in making their decision without an internal site visit. The Council made a decision based on the evidence before them which included the submitted plans and external site photographs. Although a site visit can offer clear assistance to the decision maker, in this case the Council considered that they had all the necessary evidence and information to come to a decision. I do not therefore consider in this case that this amounts to unreasonable behaviour.
8. The applicant has referred to the lack of justification for the Council to come to the conclusion that the proposed development amounted to the overdevelopment of the property. Whilst I have disagreed with the Council on this point, they reasonably set out, including reference to the planning history and previous extensions to the appeal property, why they were of this view.
9. The applicant considers that the Council should have followed their internal advice in terms of considering amended plans on a previous application. The previous application is not however before me in the appeal and the costs application is not in relation to the refusal of that application whether or not the application subject to the appeal followed from it.
10. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. The Council had reasonable concerns about the impact of the proposed development which justified its decision. The applicant had to address those concerns in any event.
11. As a result, it 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

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated. Therefore, a full award of costs is not justified.

A M Nilsson

INSPECTOR