



Costs Decision

Site visit made on 3 May 2022

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26/05/2022

Costs application in relation to Appeal Ref: APP/P3040/W/21/3289327 Springfield, Radcliffe Road, Holme Pierrepont, Nottingham NG12 2LF

- 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 Rushcliffe Borough Council for a full award of costs against Mr Daneshmanesh of Danesh Property Ltd.
 - The appeal was against a grant of planning permission subject to condition for demolition of outbuilding and the erection of a two-storey side extension to the existing dwelling.
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Decision

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

Reasons

2. 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, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The Council claims that the appellant has acted unreasonably in lodging an appeal relating to matters which should have been subject to a further planning application rather than an appeal against the approved plans condition, which has directly caused the Council to incur unnecessary and wasted expense in the appeal process.
4. Section 78 of the Town and Country Planning Act 1990 provides for a right of appeal against planning decisions where a local planning authority refuse an application for planning permission or grant it subject to conditions. In planning appeals, the parties are normally expected to meet their own expenses irrespective of the outcome.
5. It is clear from the appellant's statement that they wish to revert to the drawings previously submitted with the application rather than those that were subsequently submitted to and approved by the Council. The area of dispute in the appeal related to the effects of the exclusion of the dormer from the scheme on the character and appearance of the host property and the wider area, which is a matter of planning judgement.
6. I have been provided with copies of email correspondence between the Council and the appellant in which the Council indicates that the roof design of the extension needed to be revised to include the provision of a front dormer.

Whilst the Council consider that exclusion of the dormer should have been the subject of a further planning application, given the Council's previous stance on this matter there would have been some uncertainty around the outcome of such an application. Although I have dismissed the appeal, it was not therefore unreasonable of the appellant to exercise their right of appeal to pursue the superseded design or to believe that they had some chance of success at appeal.

Conclusion

7. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

M Ollerenshaw

INSPECTOR