
Costs Decision

Site visit made on 12 April 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 01 August 2022

Costs application in relation to Appeal Ref: APP/N4720/X/22/3292368 South Wood, Ling Lane, Scarcroft, Leeds LS14 3HT

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Leeds City Council for a full award of costs against Mr R Singh.
 - The appeal was against the refusal of a certificate of lawful use or development for pair of double garages with pitched roof not more than 4m to ridge and more than 2m from boundary.
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Decision

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

Reasons

2. Paragraph 030 of the National Planning Practice Guidance (NPPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The word "unreasonable" is used in its ordinary meaning.
3. Paragraph 052 of the NPPG sets out examples of the types of behaviour that may give rise to a procedural award against an appellant. Appellants are required to behave reasonably in relation to procedural matters on the appeal, for example, by complying with the requirements and deadlines of the appeals process. Under paragraph 053, the right of appeal should be exercised in a reasonable manner, and appellants are at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding.
4. My attention has been drawn to the appellant's previous LDC application, ref: 20/05958/CLP for an outbuilding of the same scale and in the same location. This was refused for the same reasons regarding the height of the building and its distance from the boundary, and also that the dwellinghouse was not considered to benefit from householder permitted development rights, as there was no evidence of its completion and occupation.
5. It is evident that the issues surrounding the completion and occupation of the house were resolved, but the scale and location of the outbuilding in the application that is the subject of the appeal were unchanged at the time of that application. On that basis, the Council submits that the appeal had no prospect of succeeding, leading them to incur unnecessary or wasted expense in defending the appeal.

6. On the face of it, I agree with the Council's argument with regard to the application submissions. Nonetheless, as may be seen from my main decision, I have taken into consideration an amended drawing from the appellant that would bring the proposed outbuilding within the limits of Class E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
7. As may be seen from my main decision, I have allowed the appeal on the basis that it would serve no public purpose to refuse an LDC strictly on the basis of the evidence submitted with the application. It would be open to the appellant to make a further LDC application using the revised drawing, involving the Council in the further expenditure of resources to process that new application.
8. Therefore, although it is unreasonable to resubmit a proposal that is identical to one that has been refused, the appellant has revised the proposal during the lifetime of the appeal and has thereby avoided the need for a further LDC application.

Conclusion

9. For the reasons above, I find that it has not been demonstrated that unreasonable behaviour has occurred which has caused unnecessary or wasted expense on the part of the Council, as described by the NPPG. As a result, no award is made.

Elaine Gray

INSPECTOR