



Costs Decision

Site visit made on 20 September 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 OCTOBER 2022

Costs application in relation to Appeal Ref: APP/Z3635/W/22/3297303

- 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 Nathan Ghouri for a full award of costs against Spelthorne Borough Council.
 - The appeal was against the refusal of planning permission for the creation of new dwelling and associated parking and amenity space.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. The PPG sets out that a costs application can be made on both procedural and substantive grounds and provides examples of the types of behaviour that would be unreasonable in this regard.
4. The applicant has applied for a full award of costs, based on both grounds.

Procedural Grounds

5. The claim for costs on procedural grounds is made on the basis that the Council did not communicate with the applicant or work proactively to find solutions.
6. The Council offers a pre-application advice service. Had the applicant entered into pre-application discussions with the Council prior to the submission of the planning application, then the Council's concerns would have been raised at an earlier stage. This may have led the applicant to reconsider pursuing the proposal or revising it in some way. It was the applicant's choice not to take pre-application advice on the submitted scheme.
7. The Council sought some information at the early/validation stage of the process but was under no obligation to engage throughout the 'live' planning application process, especially when it considered the proposal to be fundamentally unacceptable. In such circumstances, if there were then a subsequent requirement on the Council to work on the live application in this way, this would unduly extend the time taken to determine an application, without necessarily there being a real prospect of finding a solution.

8. Overall, given the above circumstances, it is not clear what the Council could have done to ensure that an appeal was avoided. Accordingly, I do not find that the Council's actions were procedurally unreasonable.

Substantive Grounds

9. It is evident from my main decision that I have agreed with the Council in respect of the effect of the development on the character and appearance of the area. The Council was entitled to reach a different view on this proposal from the previous approval, given that its overall effect would be different from that of an extension. The case officer's report made reference to the previous approval and clearly set out the differences and concerns.
10. The submitted layout for the first floor does not seem particularly practical to me. I can therefore appreciate that the Council may have had reservations in relation to how the upper floor might be laid out in the future, which could in turn effect the level of occupancy. However, given the substantive evidence available as to whether such a change would take place, I did not place as much weight on it as the Council. Indeed, I find that whilst the Council's concerns are understandable, the weight they placed on the changes occurring and thus extrapolating from that the second reason for refusal comes very close to constituting unreasonable behaviour.
11. Even if I were to conclude that the Council's behaviour was unreasonable in this respect, I would still need to address the matter of unnecessary or wasted expense. The applicant's evidence for the appeal was straightforward and included a short rebuttal of the Council's case. It appears to me that, in reality, there has been so little extra work occasioned by the second reason for refusal that it can be regarded as 'de minimis'. It seems to me that the applicant has quickly and succinctly set out his case and responded to the Council's case without causing unnecessary or wasted expense.
12. Overall and for the reasons given, an award of costs is not justified.

Stewart Glassar

INSPECTOR