
Costs Decisions

Site visit made on 10 October 2022

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 08 NOVEMBER 2022

Costs application in relation to Appeal Ref: APP/K2420/D/22/3305188 7 Norwood Close, Hinckley, Leicestershire LE10 1TS

- 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 Mathew Stachurski for an award of costs against Hinckley and Bosworth Borough Council.
 - The appeal was against the refusal of an application for planning permission for a first-floor side extension.
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Decision

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

Procedural matter

2. The applicant has submitted a cost application. I understand this to mean that he is applying for a full award of costs given the reference to procedural and substantive matters.

Reasons

3. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of an appeal, 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. The application for costs in this case was made by the applicant against the Council on two grounds, firstly in relation to a procedural matter, and secondly in respect of the substance of the appeal.

Procedural Claim

4. Paragraph 033 of the PPG confirms that whilst the behaviour and actions at the time of the planning application can be taken into account in the consideration of whether or not costs should be awarded, costs cannot be claimed for the period during the determination of the planning application.
5. The applicant considers that the Council has exhibited unreasonable behaviour that made the appeal necessary in the first place in relation to a lack of proactive working and communication during the processing of the application and since the determination in terms of the assessment and feedback on revised plans. Neither of these actions took place as part of the appeal process and therefore any costs that were incurred could not be awarded.

6. I note that there was a delay of four days between the Council submitting the appeal questionnaire to the Planning Inspectorate and supplying a copy of it to the applicant. Whilst frustrating for the applicant, I do not consider that this delay resulted in unnecessary or wasted expense.
7. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated with regard to the procedural matters identified by the applicant.

Substantive Claim

8. Paragraph 049 of the PPG indicates that local planning authorities will be at risk of substantive cost awards being made against them for, amongst other things, not determining similar cases in a consistent manner.
9. The applicant claims that the Council have not determined similar cases in a consistent manner. However, I am satisfied that the Council considered the appearance of other properties in the locality to make an informed judgement about the existing character and appearance of the area.
10. In this case the reasons for refusal were generally complete, precise, specific and relevant to the application. They clearly stated the development plan policies that the Council found the proposal to conflict with. The reason for refusal was substantiated by the Council in its Officer Report which adequately explained the reasoning for the decision.
11. The Council's Officer Report acknowledges and discusses other examples of extensions within the surrounding area raised by the applicant, in particular those at 13 and 18 Norwood Close and therefore it is clear that the Council did take reasonable account of the submitted information provided by the applicant with regard to other extensions within the vicinity of the site when determining the application.
12. Irrespective of the applicant's assertion that supplementary planning guidance has been interpreted differently in different cases, I am satisfied that the decision to refuse planning permission was taken having regard to this context, as set out in my S78 decision. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated in this respect.
13. On the basis of the information before me I find no unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has been demonstrated, as described in the PPG, in respect of the procedural or substantive claims. The application for an award of costs is therefore refused.

G Dring

INSPECTOR