

Costs Decision

Site visit made on 29 November 2022

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Costs application in relation to Appeal Ref: APP/D3505/D/22/3302344 Land at The Cottage, Withindale Lane, Long Melford, CO10 9HS

- 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 Aidan Powlesland for a full award of costs against Babergh District Council.
 - The appeal was against the refusal of planning permission for the demolition of existing portacabin. Erection of a two storey library extension including stairwell in the Neo-classical Georgian style plus a joining section with Neo-classical windows and doors.
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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. Paragraph 047 of the PPG makes clear that local planning authorities (LPAs) are at risk of an award of costs if they deliberately conceal relevant evidence during the application stage.
4. Paragraph 049 of the PPG makes clear that a local planning authority is at risk of an award of costs if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations or if they make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. The appellant's case is that the Council did not discharge its statutory duty either by apparently deleting or in any case failing to read and have regard to the covering letter submitted with the application and failing to read and have regard to the submitted Planning Statement. Thereafter the LPA undertook an inaccurate assessment of the development which led to the refusal of planning permission.
6. However, it appears to me that the LPA did assess the application accurately and in accordance with the Development Plan and other material

considerations, as it was bound to do, referring in its delegated report to the scale and design of the proposed extensions in relation to the host dwelling and site. Having done so, it was not unreasonable for it to refuse planning permission if it was concluded that the development conflicted with the Development Plan and there were no other material considerations to outweigh this. That was a matter of judgement.

7. I have no evidence to support the appellant's claim that the LPA either deleted, lost or failed to read or have regard to submitted documents. The LPA is not bound to refer explicitly to the case put forward by the appellant or to agree with it but must judge the proposed development on its merits and in accordance with the Development Plan.
8. I am therefore satisfied that in this case the LPA did give proper consideration to the proposed development, based on the facts, reaching its decision in the context of the Development Plan and other material considerations and backing up its assessment with reference to specific relevant policies.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated and that an award of costs is not justified.

KE Down
INSPECTOR