



Costs Decision

Site visit made on 29 March 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2023

Costs application in relation to Appeal Ref: APP/N3020/D/22/3313377 43 Castleton Avenue, Arnold NG5 6NH

- 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 David Holmes for a full award of costs against Gedling Borough Council.
 - The appeal was against the refusal of planning permission for extension & alterations to ground floor to form open plan kitchen, utility and store with extension to first floor to form bedroom and bathroom and alterations to form en-suite.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal and with respect to the substance of the matter under appeal. Examples of unreasonable behaviour may include preventing or delaying development which should clearly be permitted or failure to produce evidence to substantiate each reason for refusal on appeal.
4. The applicant for costs contends that the application process for their previous application (ref 2021/1295) was protracted, communication was poor and at times inconsistent. The deadline for the later application (ref 2022/0947), to which the appeal relates, also lapsed prior to a decision being issued.
5. I am advised that while waiting for a formal decision on application 2021/1295, the applicant paid for structural engineering drawings to seek building quotes as builder availability and rising material costs were a concern. In the first instance, only the unnecessary or wasted costs in pursuit of the appeal itself can be recovered by an award of costs. Costs of this nature incurred in respect of a previous application cannot therefore be recovered through this process.
6. In respect of application 2022/0947, the reason for refusal is set out clearly in the Council's decision notice. Justification is provided in the Council's Officer Report, with reference to relevant national and local planning policy. It will be seen from my decision that I agree with the Council's judgement in this instance and consider there were sufficient grounds for refusing planning

permission. I therefore do not consider that the Council has acted unreasonably in this respect.

7. I recognise the applicant's frustrations regarding the time taken to determine their planning applications and the level of engagement offered by the Council. The PPG and National Planning Policy Framework encourage local planning authorities to take a positive approach and work proactively with applicants.
8. Though it appears at one stage there was some indication the previous proposal was considered acceptable in principle in its original form, this was clearly indicated to be subject to further sign-off. The evidence before me indicates that the Council did ultimately engage with the applicant thereafter and allowed an opportunity for them to address concerns with the previous proposal, which culminated in a grant of planning permission.
9. The applicant chose to subsequently submit application 2022/0947, through which attempts were made to address previous concerns with the proposed two storey side extension. The Council however considered that the circumstances had not materially altered and have therefore been consistent in respect of these concerns.
10. While delays in determining any planning application are regrettable, the Council did ultimately refuse the application to which the appeal relates. Therefore, as the appeal was inevitable, the appellant did not incur any wasted expense in defending the appeal as a consequence of this delay. This is not unreasonable in the terms of the PPG.

Conclusion

11. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Ryan Cowley

INSPECTOR