



Costs Decision

Site visit made on 3 July 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2023

Costs application in relation to Appeal Ref: APP/J4423/W/23/3316267 26 Endowood Road, Sheffield S7 2LZ

- 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 L Morgan for a full award of costs against Sheffield City Council.
 - The appeal was against the refusal of planning permission for a loft conversion including rear dormer, side and rear extensions, repairs to facade, windows and doors.
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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. The PPG states that awards may be either procedural, in regard to behaviour in relation to completing the appeal process, or substantive, which relates to the planning merits of the appeal.
3. The applicant's cost claim asserts that they were put to unnecessary expense due to the unreasonable behaviour of the Council, in relation to the timescales associated with issuing the final decision, differing advice in relation to the required depth of setback required and lack of justification for changes to the setback depth.
4. Based on the evidence before me, there have been a number of emails and other forms of correspondence between the applicant's agent and Council in an attempt to negotiate the design of the proposed development, specifically the depth of setback. Both parties agreed extensions of time during the processing of the application to facilitate the negotiations. The Council do acknowledge delays with the processing of the application, which were due to high workloads and further exacerbated by the departure of 2 of the 5 officers in the relevant team. The Council also provided an explanation for the delays, due to a combination of high workloads, staff shortages and sickness.
5. Whilst the situation is regrettable and frustrating for the applicant, particularly in relation to wider issues with cost of materials, these are nonetheless reasonable explanations for the procedural delays in the case. Nevertheless, part of the delay in determination was due to the communications and effects to secure a favourable outcome from the applicant's agent, with the Council responding accordingly.

6. With regards to the setback, the email from the Council to the applicant's agent dated 4 October 2022 sets out the Council's concerns and suggests amendments, including a suggested setback of 1 metre, with a lowered ridge, or set in the extension from the side boundary. The Council outlined the justification for these design amendments, which was to ensure subservience and avoid terracing. This justification was reiterated during negotiations.
7. There is disagreement between the parties whether a smaller setback was agreed. However, the evidence submitted does not indicate unreserved support by the Council. Notwithstanding this, the Council justified their concerns and sought to negotiate a revised setback of 500mm.
8. The PPG advises that, where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs. Although I have reached an alternative decision to the Council, the Council's case is well made and cannot be considered unreasonable. The Council did not behave unreasonably in making their decision using their planning judgement, which was based on the information that they had, in accordance with the development plan and other material considerations, including having regard to other extensions in the area, which had been drawn to their attention.
9. For the above reasons set out above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application for an award of costs must fail.

S Pearce

INSPECTOR