



Costs Decision

Site visit made on 22 August 2023

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th September 2023

Costs application in relation to Appeal Ref: APP/P2935/W/23/3323551 Land South East of 4 Studley Drive, Swarland, Northumberland, NE65 9JT

- 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 Derek Elsdon for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for a 3-bedroom dormer bungalow.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to substantiate its reasons for refusal at appeal, and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The Council refused the planning application on grounds relating to character and appearance. Its response to the costs application refers to the analysis in the officer report as evidence that it thoroughly assessed the proposal against relevant local and national planning policies.
5. In allowing the appeal I found that the proposal would not be harmful to the character and appearance of the area. Whilst I accept that the Council is entitled to apply its own judgement on such matters, I consider that its concerns were not adequately substantiated. For instance, emphasis was placed on the proposed plot size and density, but there was little objective analysis of plot sizes in the wider area and the applicant's evidence in this regard. The comparison made to the plot size of 4 Studley Drive was, in my view, unreasonable given the garden of 4 Studley Drive is far larger than most along the street and in the wider surrounding area. Furthermore, the analysis in the report was even contradictory in places, referring to the sufficient amenity and circulation space around the proposed dwelling, but then criticising its tight layout and appearance.
6. Overall, I consider that the Council's refusal was not well founded, containing vague and generalised assertions about the proposal's impact, with the result that the Council has been unable to substantiate its reasons at appeal.

7. Accordingly, I am of the view that unreasonable behaviour described in the PPG has been demonstrated on the part of the Council, and has resulted in the applicant's unnecessary expense in contesting the appeal. A full award of costs is therefore warranted.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Northumberland County Council shall pay to Mr Derek Elsdon, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Northumberland County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Caines

INSPECTOR