



Costs Decision

Site visit made on 19 September 2023

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2023

Costs application in relation to Appeal Ref: APP/X4725/W/23/3318707 5 Hillcroft Close, Darrington, Pontefract WF8 3BD

- 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 Mrs Sally Hutchinson for a full award of costs against Wakefield Metropolitan District Council.
 - The appeal was against the refusal of planning permission for the use of domestic annexe as a dwelling.
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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. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters, such as providing information that is shown to be manifestly untrue or inaccurate, or deliberately concealing relevant evidence. It also includes substantive matters, such as preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, or failure to provide evidence to substantiate the reasons for refusal.
4. The application for costs relates to the alleged failure of the council to participate on resolving issues prior to the appellant lodging the appeal. The Council state that as the application was for the change of use of an annexe building and the building was constructed before the submission of the planning application, there was no possible way to mitigate the cited reason for refusal.
5. The appellant contends that the Council has provided unclear reasons for refusal. I note that the Council have issued a decision with an appropriate reason for refusal given to the applicant.
6. The appellant further contends that the Council has failed to enter into negotiations with the appellant on the use of conditions to mitigate against concerns raised. The appellant had suggested that an increase in the height of the boundary fence or the use of obscurely glazed windows could have been conditioned to reduce the harm to residential amenity on the host dwelling.

7. Due to the nature of the proposal, I appreciate the stance of the Council to not enter into negotiations on the use of conditions as this would introduce a level of harm to the residential amenity of the future occupiers of the proposed dwelling. My reasoning against the use of the suggested conditions by the appellant can be found in the 'Main Issue' section of my appeal decision.
8. To conclude, from the evidence before me, I am not persuaded that the Council has acted unreasonably when coming to a decision on this application. Consequently, the issue was one of a fundamental disagreement between the parties which could have only been resolved by way of an appeal. As such unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs on this issue is not justified.
9. For this reason and taking into account all other matters raised, the application for costs is refused.

J Smith

INSPECTOR