



Costs Decision

Site visit made on 6 November 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2023

Costs application in relation to Appeal Ref: APP/F4410/W/23/3322813 12 Oldfield Crescent, Stainforth, DONCASTER, DN7 5PG

- 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 RTS Properties for a full award of costs against Doncaster Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for Conversion of previously approved two storey side extension to form independent dwelling (Retrospective) (being resubmission of 21/02066/FUL refused 2.8.2022).
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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. A Council would be vulnerable to costs if it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The Applicant alleges that the Council procedurally failed to:
 - recognise that information it sought had already been submitted by the Applicant during the consideration process and to engage proactively.
4. In substantive terms the costs application alleges that the Council:
 - Failed to apply its policies in a fair and consistent manner in that the previous application was only refused on the basis that it had insufficient parking. The revised scheme included additional parking and presented a clear expectation that the application would be approved. However, the scheme was refused for parking related reasons and two others.
 - The first reason fails to identify a change in circumstances that would warrant a different approach to the second refusal for a dwelling and fails to recognise that the extension is already built and therefore cannot affect the character and appearance of the area.
 - The decision fails to recognise that open frontages are not a distinctive characteristic of the area. Even if it is the Council could have reduced its parking requirements to retain more of the front boundary.

- The Council erroneously claim that the scheme failed to provide sufficient amenity space despite it achieving the 50sqm sought by Council guidelines and was previously found to be acceptable.
- Also, the effect of overlooking failed to properly account for the previous approval for the extension where overlooking was found to be acceptable.

Procedural matters

5. The scheme the subject of the appeal is similar to a previous proposal, to also convert the extension to a separate dwelling, that was refused in August 2022 (the first refused scheme). The Council requested amended plans to address highway comments on several occasions during the application consideration process between December 2021 and June 2022. However, these dates relate to a time period during the first refused scheme and do not therefore directly relate to the proposal the subject of this application for costs.
6. The application, the subject of this appeal, was dated 4 August 2022 and refused 15 March 2023. The Council identifies that this application was dealt with by a different planning officer to the first scheme. The second officer raised most of the concerns, that resulted in refusal, in an email to the applicant 25 August 2022. This included comments that the scheme included three spaces which were inadequate and would require increasing to meet parking requirements. It appears that a plan showing four spaces was submitted prior to a decision being issued as this is referenced in the officer report, but these were found to be of insufficient width. The other issues raised in the officer's email appeared to remain largely outstanding. This email therefore appeared to provide an opportunity for the applicant to address the Council's concerns in a fair and reasonable manner.
7. I therefore do not find any procedural evidence that the Council failed to engage proactively with the Applicant during the application consideration process.

Substantive matters

8. The reason for refusal, of the first refused scheme, identified a loss of parking and that the scheme failed to provide adequate or functionable parking. This was the sole reason for refusal and therefore excluded any reference to adverse effects on living conditions or an absence of drainage details, that were included in the second refused scheme for conversion (the subject of the appeal).
9. The Council determined two very similar planning proposals on the same site, within a similar time-period, but introduced two new reasons for refusal for the second scheme. I am unable to determine a clear and material difference between the two schemes for comparison. It has also not been drawn to my attention that there has been a change to policy locally or nationally, in the time-frame between both decisions, that would warrant a different approach.
10. Although planning officers are entitled to reach their own planning judgements, in application of the RTPI Code of Conduct, the Local Planning Authority must demonstrate it is making consistent decisions. This is important to foster public confidence in the decision-making process and ensure the efficient delivery of a professional planning service. This objective should ensure that the opinions of individual planning officers do not result in inconsistent decisions being made

for very similar schemes. This objective is especially pertinent when dealing with two schemes on the same site such as in this case.

11. However, the Decision Notice of the second refused scheme, identified issues that have been found to be material considerations which identified further clear reasons to refuse the scheme. Therefore, whilst the two decisions reveal some inconsistency in approach this raises questions as to how the first scheme was determined rather than the second refused scheme.
12. Furthermore, the variance in these two decisions is limited as both were refused on highway impact grounds, and this was not therefore a proposal that should have plainly been permitted. As such, the difference between both decisions has had a limited bearing on the appeal itself. In the case of the appeal, in my main decision I have found conflict with the development plan, resulting in its dismissal. Accordingly, the inconsistency identified has not materially affected the appeal process.
13. The remaining three substantive matters raised by the Applicant largely replicate the grounds of appeal and have been addressed in my main decision.

Conclusion

14. Accordingly, despite finding some inconsistency in decision making, the Council has not behaved unreasonably. The identified inconsistency has not materially affected the appeal process and therefore has not resulted in wasted expense. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Ben Plenty

INSPECTOR