



Costs Decision

Site visit made on 5 December 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th January 2024

Costs application in relation to Appeal Ref: APP/P2365/W/23/3320965 29 Highsands Avenue, Rufford, Lancashire L40 1TE

- 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 Ms Emma Pye for a full award of costs against West Lancashire Borough Council.
 - The appeal was against the grant subject to conditions of planning permission for a single storey rear extension.
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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 applicant considers the disputed condition was not relevant to the appeal development as the description of development only referenced a single storey extension. The submitted drawings however clearly identified a number of other alterations, including to the door and window openings on the front elevation.
4. I have found in the accompanying appeal decision that the disputed condition is not necessary, but the Council has set out its reasoning for imposing this condition, referencing the impact on the streetscene of the use of render on one of four properties that is currently formed of brick as the main wall material. I therefore consider that the Council has applied an adequate level of reasoning to justify its stance in this regard. The main parties take different positions on whether the appeal property had permitted development rights to use render, but this is not however a matter for me to determine in the context of this appeal.
5. Whilst a condition was not imposed restricting permitted development rights on the original planning permission relating to the estate that the appeal property forms part of, a significant period of time has elapsed since the estate was constructed in the 1960's. The appellant references changes in fashion that can take place over a period of time. In this regard, the use of render as a facing material, may not have been as prevalent at the time the houses were originally consented.
6. Reference has been made to a number of other planning permissions that the Council has granted on Highsands Avenue where conditions removing

permitted development rights had not been imposed. It is not however clear from the information before me that the circumstances of those developments were the same as that of this appeal scheme. In at least two of the referenced cases, from the decision notices provided, it is evident that the Council sought to control the external finish of the developments being permitted so that they matched the brickwork to the respective existing building.

7. Consequently, whilst in my judgement, the disputed condition is not reasonable or necessary, an award of costs does not necessarily follow the outcome of the appeal. As an arguable case has been presented by the Council, I consider the imposition of the disputed condition was not unreasonable behaviour.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not therefore justified.

F Rafiq

INSPECTOR