
Costs Decision

Site visit made on 16 January 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2024

Costs application in relation to Appeal Ref: APP/W0734/D/23/3332963 5 Wycherley Avenue, Linthorpe, Middlesbrough TS5 5HH

- 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 & Mrs Doreen Yeoh for a full award of costs against Middlesbrough Council.
 - The appeal was against the refusal of planning permission for part demolition of existing rear offshoot to allow for new single storey extension to rear.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. 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. PPG explains that unreasonable behaviour in the context of an application for an award of costs may be either:
 - procedural – relating to the process; or
 - substantive – relating to the issues arising from the merits of the appeal.
3. The applicant claims that no site visit was carried out by the Local Planning Authority to understand the impact of the proposed development despite numerous requests and thus the proposed development was refused without site specific analysis/objective evidence. It is also claimed that the Conservation Officers' comments related to the wrong property which was not corrected during the application process. Reference has been made to injustice given the approval of a similar single storey rear extension at a neighbouring property of a larger projection than that at the appeal site where it is claimed a site visit was carried out and that similar design features now proposed and unsupported was something that the Council have been requesting on such rear extensions. Overall, it is claimed that the Councils' decision represented vague and generalised assertions about the proposal's impact, which are unsupported by any objective and site-specific analysis.
4. In response to the appellants' claims, the Council contends that the suggestion of a lack of objective analysis is considered to be unfounded given the detailed analysis carried out in the initial application where a number of discussions took place with the agent regarding the matter of scale/projection and impacts. The final decision was considered as being the maximum scale of development

that could take place with various elements of the scheme discussed in the officers' report including reference to the previously approved scheme. The Council explain that whilst it appears the Conservation Officer considered the proposals in the context of a different property, the comments did reference the proposed works and that the Council is not in control of the accuracy of consultee comments. The comments made did not raise any objection to the proposed scheme on conservation grounds and thus the officers' report did not place any significant reliance on the comments made. In terms of the approval of a similar single storey rear extension at a neighbouring property of a larger projection than that at the appeal site, the Council set out a number of differences between that scheme and the scheme subject to this appeal and does not consider the two to be comparable.

5. The PPG advises behaviour that may give rise to a substantive award of costs including, amongst other matters, failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
6. From the evidence before me, it is clear that the Council has provided sufficient reasoning relating to the concerns raised. It is not unreasonable for the Council to raise concern about the impact of the proposed development on the character and appearance of the host property and immediately adjacent property as well as its effect on the living conditions of existing occupiers of the attached dwelling with particular regard to outlook. This informed its decision given the site context and relationship to its neighbours. Even if a site visit was not carried out, I do not find that inaccurate assertions about the proposal's impact have been made as this is indeed a matter of planning judgement.
7. I appreciate frustrations regarding the Conservation Officers' comments. However, it is clear from the evidence before me that they did, in part refer to the development proposals and thus not totally inaccurate. I am also mindful that the comments made did not raise any objection to the proposed scheme on conservation grounds and did not therefore change the outcome of the decision despite the comments not being corrected.
8. Having regard to the plans provided showing the referred to approval of a similar single storey rear extension at a neighbouring property, I also find clear differences between that scheme and the one before me including amongst others, site context and relationship to its neighbours. They are not therefore directly comparable. In any event, each case is determined on its own merits, and it is not unreasonable for the Council to have not afforded any significant weight to this previous scheme.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in relation to the substantive matters of the appeal and that an award of costs is not justified.

N Teasdale

INSPECTOR