
Costs Decision

Site visit made on 15 January 2024

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 29th January 2024

**Costs application in relation to Appeal Ref: APP/P2935/D/23/3328638
Pethfoot Lodge, B6341 Blue Knox to New Moor, Cragside, Northumberland
NE65 7PU**

- 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 Gill for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for single storey rear extension, extend roof above and rear dormer addition.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, costs may only 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's case is essentially that the Council did not attempt to discuss their concerns about the proposal whilst the planning application was being considered, that it did not take the applicant's Planning Statement into account, and that the proposal accorded with Council policy and guidance. Furthermore, they allege that the Council did not consider similar cases consistently.
4. The Planning Practice Guidance (PPG) states that local planning authorities are at risk of costs being awarded against them if they behave unreasonably with respect to the procedure of determining a planning application. It sets out a list of examples, which whilst not exhaustive, none of which apply to this claim.
5. The applicant did not seek advice from the Council prior to making their application. I note that the Council's Development Management Charter makes it clear that an application will normally be progressed towards a decision without negotiations being undertaken where the Council consider the proposal contrary to policy. That was the case in this instance and the applicant's expectations should have aligned with this approach. There is no requirement for the Council to enter into negotiations on the proposal during its consideration, and in this case the Council contacted the applicant to advise them of the likely outcome. The Council did not act unreasonably in respect of procedural matters.

6. Each application for planning permission needs to be determined on its own merits. It is clear from the other examples cited by the applicant that the Council took into account site specific considerations in those cases which are in different parts of the county, and furthermore two of the three were considered under previous development plans. As such, there is no convincing evidence that the Council determined this application in an inconsistent manner compared with other cases for similar development types.
7. Another example the PPG gives of behaviour that may give rise to a substantive cost award against a local planning authority is where it prevented development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
8. I found that the proposal was contrary to the development plan. As such I do not consider that the Council acted unreasonably by refusing the application on that basis. However, despite a mention in the applicant's Planning Statement, there is no indication in the Council's Delegated Report or elsewhere that the potential fall-back position had been considered. Bearing in mind that I found this material consideration was one which, along with others, indicated that the proposal would be acceptable despite its development plan conflict, the Council therefore behaved unreasonably in not taking this material consideration into account.
9. That being said, given the physical difference between the fall-back scheme and that applied for, and the necessity of the Council exercising its planning judgement in considering the proposal's effect on the character and appearance in what is a particularly sensitive location, with a detailed representation from the national Trust, the issues were not so clear cut such that there is no certainty that the Council would necessarily have reached a different conclusion overall, even if they had explicitly considered the fall-back scenario. In those circumstances the appellant would still have been faced with the choice of whether to appeal and incur the costs of doing so. Therefore, on the balance of probabilities it appears likely that an appeal and the associated expense would have ensued in any event.
10. All this leads me to conclude that unreasonable behaviour directly leading to unnecessary or wasted expense in the appeal process has not been demonstrated. Consequently, an award of costs is not justified, and the application is therefore refused.

Geoff Underwood

INSPECTOR