



Costs Decision

Site visit made on 27 June 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2024

Costs application in relation to Appeal Ref: APP/C1055/D/23/3335741 20 Welney Close, Mickleover, Derby DE3 0NZ

- 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 Muddasser Nazir for a full award of costs against Derby City Council.
 - The appeal was against the refusal planning permission for a first floor extension, single storey rear and front 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 PPG outlines that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. One example of such unreasonable behaviour is 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.
4. The applicant outlines that officers made a favourable recommendation on the appeal proposal in a report that was scheduled to be presented to the planning committee. The report was subsequently withdrawn from the agenda, with the applicant suggesting that this was due to the Council's Conservation Officer not having been consulted on the amended scheme. It subsequently followed that planning permission was refused under delegated powers.
5. In these circumstances, I acknowledge that the ultimate refusal of planning permission would aggrieve the applicant following the initial recommendation. That said, such indications of recommendations do not bind the decision maker until their formal decision has been issued. The facts are that the 'recommendation' is merely that. Indeed, it was not presented to members of the committee and clearly following additional internal consultation, the decision was to refuse planning permission under delegated powers. The fact that in this case the eventual decision was not what had been indicated in the withdrawn report does not amount to unreasonable behaviour by the Council.

6. I appreciate that having amended the scheme to overcome concerns identified with the original submission, the applicant would be inevitably frustrated that a favourable decision was not forthcoming. Whilst seeking to act on the Council's initially identified concerns is commendable, there can usually be no guarantee that doing so will result in the granting of planning permission.
7. The applicant has referred to the Council's reason for refusal specifying the proposed materials. The applicant considers that these details could have been conditioned and therefore in doing so the Council acted unreasonably. I do not consider it was unreasonable for the Council to consider details before them. It is also clear that this was not their only concern with the scheme and therefore imposing the condition could not have enabled the development to go ahead. Therefore, the appeal could not have been avoided in any event.
8. The reasons for refusal as set out in the Council's decision notice are complete, precise, specific and relevant to the application. They also clearly state the policies of the Derby Local Plan and the Derby Local Plan Review that the Council considered the proposal would conflict with. These reasons have been adequately substantiated by the Council in their report which demonstrates how they considered the proposal would be harmful to the character and appearance of the conservation area and the setting of the listed buildings. I therefore do not consider that the Council acted unreasonably in refusing planning permission for these reasons, even if I have only agreed with the Council on one of them. The Council exercised its planning judgement in coming to this decision.
9. It therefore follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated.

A M Nilsson

INSPECTOR