



Costs Decision

Site visit made on 9 July 2024

by Chris Couper BA (Hons) DiP TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2024

Costs application in relation to Appeal Ref: APP/P1045/D/24/3345010 Hole In The Wall, Yeldersley Lane, Bradley, Derbyshire DE6 1LQ

- 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 and Mrs Stone for a full award of costs against Derbyshire Dales District Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing garage and the erection of a dependent relative unit.
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Decision

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

Reasons

2. The Planning Practice Guidance states that the aim of the costs regime is, amongst other things, to encourage all those involved to behave in a reasonable way and to follow good practice. It 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. An award of costs may result from either procedural or substantive matters.
3. At ID: 16-049-20140306 it lists examples of types of behaviour that may give rise to a substantive award of costs against a local planning authority. They include 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; failure to produce evidence to substantiate each reason for refusal on appeal; giving vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; not determining similar cases in a consistent manner; and refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
4. In summary, the applicants maintain that the decision on their planning application was contrary to the pre-application advice they received; that the Council's concerns regarding the scheme's design are vague and do not appropriately consider the context; that it has failed to consider similar cases in a consistent manner; and that it took a less than co-operative approach, particularly regarding the consideration of amended plans.

5. For my part, I note that the applicants sought pre-application advice, in accordance with the stance in the National Planning Policy Framework ('Framework'). In its reply dated 17 April 2023 the Council set out that, given the appearance of the garage, its preference would be for a replacement building rather than the conversion of the existing structure. It continued that the replacement should be in a similar position and of a similar scale to the garage, but that the design of a larger structure and its relationship with the listed building would require consideration, and that the submission of a further pre-application enquiry was therefore advised.
6. In its second pre-application advice letter dated 16 August 2023, the Council expressed concerns regarding the scale and character of the proposed replacement building, and its impact on the setting of the Grade II listed Hole In The Wall, but re-iterated that the principle of replacing the existing building remained acceptable.
7. Turning to the Council's decision on the planning application, this alleged harm to the character and appearance of the area and to the setting of the listed building. Having regard to the appraisal/issues section of its delegated report, the Council explained its concerns regarding the design, size, footprint and visual mass of the proposed building. Whilst I have reached a different finding, these are matters of planning judgement, and the Council adequately explained the reasons why it came to that conclusion.
8. The Council's stance in its decision regarding the siting of the replacement building is somewhat at odds with its pre-application advice. That said, its concerns also related to more detailed design matters, and thus even without that inconsistency, it appears to me that the outcome of the planning application would not have been any different.
9. The Council's reasons for refusal and its delegated report are reasonably clear, and substantiated, having regard to the scheme's design, form, detailing and materials, and make appropriate reference to relevant development plan policies, and to the Framework.
10. Although the Council expressed its reluctance to entertain amended plans during its consideration of the planning application, it did eventually accept them, and the applicants were not therefore disadvantaged or put to any additional cost due to its original stance.
11. Finally, whilst the Council is accused of failing to determine similar cases consistently, on design matters, and particularly where the setting of listed buildings is concerned, cases are rarely, if ever, alike. I am not therefore persuaded that on matters related to design and appearance, and the impact on the setting of listed buildings, cogent similarities can be drawn between those decisions cited at paragraph 1.8 of the applicants' claim for costs, and the scheme before me.
12. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated, and the application for an award of costs is refused.

Chris Couper

INSPECTOR