



Costs Decision

Site visit made on 17 July 2024

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

Costs application in relation to Appeal Ref: APP/F2415/D/24/3337927 Cream Cottage, Main Road, Claybrooke Parva, Leicestershire LE17 5AE

- 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 Graham Hart for a full award of costs against Harborough District Council.
 - The appeal was against the refusal of planning permission for creation of new site access and erection of carport without complying with condition 6 attached to planning permission Ref 20/00515.
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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, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Both tests need to be satisfied before an award of costs can be made.
3. The PPG gives examples of the types of behaviour that could give rise to an award of costs against a local planning authority. They are not exhaustive but 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; and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant cites unreasonable behaviour because the Council gave no reason why the original application¹, which proposed a metal roof on the carport, had to be amended. The applicant has since built the carport and considers the metal roof he has used to be appropriate and in keeping. Hence further expense was incurred with the submission of the application to vary the condition, which was refused. If the Council had acted reasonably during the original application, then the planning application to vary the condition would not have been required.
5. The Council's case is that during determination of the original application the Conservation Officer considered the proposed metal roof would be inappropriate and harmful. The applicant agreed to amend the scheme to use clay tiles to match the house. The Council contends it has acted consistently in

¹ 20/00515/FUL

refusing to vary the condition as there had been no material change in circumstances since the original application.

6. It is clear that the Council raised its concerns about the metal roof with the applicant during the original application. Whilst I do not know how the Council's concerns were relayed to the applicant, he nonetheless agreed to amend the plans to show that a clay plain tile roof would be installed on the carport instead of the metal roof that was initially proposed. The applicant was therefore fully aware of the Council's view about the metal roof before the original application was finally determined.
7. The Council, rightly in my view, imposed condition 6 on the original planning permission as it was reasonable and necessary to ensure that the carport was roofed with clay roof tiles in accordance with the *amended* plans [my emphasis] for the avoidance of doubt and more significantly to ensure preservation of the setting of the listed building and the character and appearance of the conservation area.
8. However, the applicant installed a different roofing material in breach of condition 6, and indeed installed a metal roof he knew the Council had already rejected and found to be inappropriate. For the reasons set out in my appeal decision, I too have found the metal roof to be inappropriate. So it is not unreasonable for the Council to pursue the matter and subsequently refuse planning permission to vary condition 6.
9. I have found the Council had reasonable concerns about the adverse impact of the metal roof that justified imposing condition 6 on the original application and its subsequent decision to refuse to vary the condition. The Council, therefore, has not acted unreasonably in this case.
10. As I have found the Council has not acted unreasonably, I need not concern myself as to whether wasted expenditure has occurred, as both tests need to be satisfied before an award of costs can be made.

Conclusion

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

K Stephens

INSPECTOR