



Costs Decision

Site visit made on 8 September 2024

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2024

Land at Highcroft, Selby Road, Garforth, Leeds LS25 2AG

Costs application in relation to Appeal Ref: APP/N4720/C/24/3342371

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Leeds City Council for a full award of costs against Mr Luke Benjamin Struthers.
 - The appeal was against an enforcement notice alleging without planning permission the erection of a detached garage to the side of the dwelling.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. After the application was made, Mr Struthers via his agent was given the opportunity to submit a response. No comments have been received; therefore, I have determined the application based on the available evidence.
4. Prior to the current appeal, planning permission had been refused by the Council for the retention of the garage that had been built. The Council's decision was appealed, but that appeal was dismissed in March 2023. Following that decision, the Council issued the enforcement notice, which resulted in the appeal before me.
5. There have, however, been no significant changes to local or national policy or guidance since March 2023, and now that could have led to a different outcome on the proposal's planning merits. Moreover, the previous decision stated that "permitted development rights were removed when approval was granted for a previous extension to the property. As such, there is no substantive evidence that a realistic fallback position exists for a repositioned garage as suggested by the appellant." The appellant ought to have known this and that the development was clearly not in accordance with the development plan, and no other material considerations indicated that a decision should have been made otherwise. Further, the March 2023 appeal decision confirmed that and relates to the same development, and there has not been a material change of circumstances in the intervening period.
6. As such, in pursuing the current appeal on ground (a), Mr. Struthers has behaved unreasonably on substantive matters relating to the merits of the appeal. Given the previous appeal decision and permitted development restriction, lodging the appeal on ground (a) has caused the Council to incur unnecessary and wasted expense in defending its position and submitting

evidence in support of the appeal and the enforcement notice being upheld.

Conclusion

7. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred, and a full award of costs is thus warranted.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr. Luke Benjamin Struthers shall pay to Leeds City Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Mr. Luke Benjamin Struthers, to whom/whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew McGlone

INSPECTOR