



Costs Decision

Site visit made on 13 November 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2024

Costs application in relation to Appeal Ref: APP/P2935/D/24/3348367 9 Osborne Avenue, Hexham, Northumberland NE46 3JP

- 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 Miss Kate Benson for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission to convert loft into a bedroom with en-suite; 1 velux window front and rear; dormer windows front and rear. Remove a ground floor internal wall making an open plan dining kitchen area, brick up and remove rear door; replace with window and bifold door.
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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. It can be seen from my formal decision that I have concluded that the proposal would result in harmful effects upon the character and appearance of the area, and it would fail to preserve or enhance the character or appearance of the Hexham Conservation Area. As a result, the proposal conflicts with the development plan taken as a whole and, because of the statutory duty set out at Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the harm to the designated heritage asset is a matter of considerable weight and importance. In this context, the Council's reason for refusal was not trivial.
4. I accept that it was open to the Council to have engaged more with the applicant during the application process and exchanged upon the merits or otherwise of certain amendments. This would have been more proactive and co-operative. However, there was not a requirement as such upon the Council to pursue amendments to the proposal. That the Council proceeded to determining the planning application put before them, and essentially leave such greater engagement to more informal correspondence exchanges outwith of the application process, was not, in my view, unreasonable behaviour.
5. Furthermore, in my formal decision, I have set out the reasons why I consider that my objections to the scheme could not be resolved through the imposition of conditions. It follows, therefore, that the Council has not acted unreasonably in refusing planning permission, rather than granting planning permission subject to conditions.

6. It is also not clear to me, that had the Council engaged further or co-operated in a more active way with the applicant during the application process, that agreements would have been reached on revisions to the appeal scheme. In turn, I cannot conclude that it would have been likely that such engagement would have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed. Therefore, the expenditure incurred in the appeal process has not been shown to me as being unnecessary or wasted.
7. Some of the Council's correspondence with the applicant has raised expectations that the proposal could constitute permitted development when, it seems to me, it would not be. Such behaviour, I accept, is not helpful. Even so, as I have no reason to conclude that the proposal does not require planning permission, the planning application submitted and determined by the Council was necessary. As a result, even though the Council has exhibited some unreasonable behaviours in this regard, the applicant's expenditure in the appeal process has been necessary as the alternative of implementing the proposal under permitted development rights is not available.
8. Importantly, I am mindful that the PPG advises that where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations indicate that planning permission should have been granted, there should generally be no grounds for an award of costs for unreasonable refusal of an application. It can be seen from my formal decision that these very circumstances apply in this case. Given my formal decision findings and the conflict with the development plan, the Council's reason for refusal was justified, and has been adequately substantiated. No undue delay of the proposed development or withholding of planning permission for it has therefore taken place. Furthermore, the PPG is clear that costs awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

H Jones

INSPECTOR