Costs Decision

Site visit made on 3 February 2025

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2025

Costs application in relation to Appeal Ref: APP/P2935/D/24/3356902
Ashgrove House, Tranwell, Morpeth, Northumberland NE61 6AF

- 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 Steve Hodgson for a full award of costs against Northumberland County Council.
- The appeal was against the refusal of planning permission for two storey rear extension, single storey front extension, internal reconfiguration, erection of new garage, new retaining wall and new boundary wall.

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 applicant contends that the Council acted unreasonably on substantive grounds in its assessment of their application which resulted in unnecessary costs by having to appeal. The applicant contends that the Council failed to adequately justify its assessment that the proposed development constituted a disproportionate addition, that it incorrectly considered openness as part of its assessment of disproportionality, and that it failed to properly consider and give weight to the applicant's fallback position[1] and whether any very special circumstances applied.

4. Even though the Council cited its 33% ‘rule of thumb’ assessment, it clearly states an assessment of disproportionality is on a case-by-case basis and references the applicant's previously refused planning application Ref 21/04987/FUL. Whilst I have not been provided with a copy of the officer report to make a comparison, the applicant does not dispute it is similar to the appeal before me. Following this, the Council carried out its analysis based on its planning judgement before reaching its conclusion. It will be seen from my appeal decision that I found the proposed development would constitute disproportionate additions, and thus constitute inappropriate development within the Green Belt. Based on the evidence, I consider its assessment of disproportionality to be reasonable.

5. The Council firstly identified that the proposed development would constitute disproportionate additions before it assessed any potential effect on openness. Whilst its assessment is brief and relies upon its previous assessment of the

[1] Lawful Development Certificate Ref 23/02243/CLPROP

applicant's 2021 refused planning application, I do not find that the Council incorrectly considered openness, as set out within recent caselaw[2].

6. With regard to the fallback position, the officer report acknowledges the applicant's Lawful Development Certificate (LDC) Ref 23/02243/CLPROP, and that multiple extensions could be implemented under permitted development. More simply, it states that planning permission should not be approved on the basis that equally harmful development could be undertaken, stressing that its role is to assess the proposals at hand. Whilst planning reports may not be required to contain every single consideration, the existence of a fallback scheme is an important matter, and the Council should have addressed this. I find its consideration of a fallback position to be brief. Nonetheless, I have found the applicant's LDC as a fallback position not to be valid, given I have no mechanism to prevent them from constructing parts of it before implementing the appeal proposal. Consequently, the LDC does not constitute very special circumstances.

7. Whilst I consider that there are weaknesses in the Council's officer report, these matters fall shy of unreasonable behaviour. It therefore follows that it has not caused the applicant to incur unnecessary or wasted expense in the appeal process.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for costs is refused.

L Clark

INSPECTOR

[2] Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404