



Costs Decision

Site visit made on 18 August 2020

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 10 September 2020

Costs application in relation to Appeal Ref: APP/X1925/W/20/3249691 15 The Crescent, St Ippolyts, Hitchin SG4 7RE

- 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 Paul Thapar for a full award of costs against North Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for the erection of one three-bed attached dwelling and garden shed in rear garden.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. Local Planning Authorities are encouraged, through the PPG, to exercise their development management responsibilities by relying only on reasons for refusal which stand up to scrutiny on the planning merits of the case.
3. The planning application was refused for two reasons: the first pertained to the effect of the development upon the character and appearance of the surrounding area, and whether the development would provide appropriate living conditions; and the second pertained to the effect of the development upon highway safety.
4. In respect of the effect on the character and appearance of the surrounding area, the presence of a fall-back position has been established in the form of a planning permission for an annexe. This has a very similar external appearance and therefore would have a comparable effect on the character of the surrounding area as the appeal proposal would have, including the plot subdivision.
5. Given this, the Council should have assessed whether this fall-back position was capable of realistically being implemented. The evidence before me does not indicate that such an exercise took place. As will be noted from my appeal decision, I could not identify any impediment to this extant planning permission being implemented.

6. Although my attention was drawn to a previous appeal decision, I note that this was considered some time ago, and before the granting of planning permission for the annexe. The dwelling that was the subject of this previous appeal had a different design to the scheme before me.
7. Consequently, the Council acted unreasonably in not assessing the likelihood of this fall-back position being implemented and, consequently, it has acted unreasonably in this regard as the reason for refusal was not fully justified. This caused the appellant unnecessary expense in pursuing an appeal in respect of this refusal reason.
8. The submitted evidence lead me to dismissing the appeal due to the lack of appropriate living conditions for the future occupiers of the development. However, the lack of assessment of the fall-back position means that the reason for refusal, as an entirety, was not fully justified.
9. Turning to the other refusal reason, the Council directed me towards appropriate planning policies that supported its decision, and the evidence before me lead me to dismiss the appeal on the basis that the development would have an adverse effect on highway safety. Accordingly, the Council's case was sufficiently explained and therefore, I can find no evidence of unreasonable behaviour within this particular regard.

Conclusion

10. The Council's decision notice identified two reasons for refusal. One pertained to the effect of the development upon the character and appearance of the surrounding area and the living conditions of the future occupiers of the development; with the other relating to highway safety. I have found that the Council acted unreasonably in refusing the application for the first reason, as the refusal reason was not fully substantiated, however, the second reason for refusal was reasonable. Accordingly, I conclude that a partial award of costs to contest the first reason is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Section 7(2) and Schedule 3 of the Countryside and Rights of Way Act 2000, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North Hertfordshire District Council shall pay to Mr Paul Thapar, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the Council's first reason for the refusal of planning permission.
12. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Benjamin Clarke

INSPECTOR