The Planning Inspectorate

Costs Decisions

Site visit made on 20 May 2019

by David Fitzsimon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2019

Costs application in relation to Appeal Ref: APP/B3438/W/19/3223550 Hillswood Lodge, 9 The Close, Leek Road, Endon ST9 9JH

- 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 Hillswood Care Ltd for a full award of costs against Staffordshire Moorlands District Council.
- The appeal was against the refusal of planning permission for a two storey side extension.

Costs application in relation to Appeal Ref: APP/B3438/W/19/3223551 Hillswood Lodge, 9 The Close, Leek Road, Endon ST9 9JH

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Decisions *(both applications)*

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance 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 claims centre around two issues. Firstly, the Claimant asserts that the Council failed to reference its adopted Supplementary Planning Guidance titled 'Space About Dwellings' (SPG) within its Committee Reports and subsequent presentations to Members, despite being highlighted by the Claimant's Agent. The Claimant argues that this resulted in the Council failing to give due weight to this document when considering the two applications.

4. Secondly, concerning the second application (Ref. SMD/2018/0780), the Claimant argues that the Council failed to accurately report the 'Late Representations Report' both to its Planning Committee and the Planning Inspectorate regarding the proportion of wall which would actually be visible from the properties of Hillside Avenue and the fact that laurel hedge rather than a beech hedge would be planted along the boundary.

5. In response, the Council points to the fact that the SPG clearly states that the space standards outlined within it seek to secure adequate levels of privacy and natural light, rather than an appropriate outlook. The Council could have referred to the SPG in its Committee Reports and indeed any subsequent discussion with Members at the Committee Meetings. However, as explained in my Decision Letter, the SPG relates to inter-relationships between dwellings. Whilst I found there to be reasonable separation between the proposed extension and the actual dwellings to the rear, my assessment of the merits of both proposals turned on the overall scale of the proposed structures combined with their proximity to the shared boundary. I am therefore satisfied that the Council was entitled not to refer to the SPG and that the approach taken does not amount to unreasonable behaviour.

6. It is clear that the 'Late Representations Report' regarding the change of the specification of the hedge to be planted along the rear boundary was reported to the Council's Planning Committee before a decision was made. It is also clear that the intention for the hedge to be grown to a height of 4.2 metres was reported. Whilst the late representations were not originally submitted by the Council with its Appeal Questionnaire, and the Council has not made it entirely clear as to the precise height that the hedge would be planted at, the Claimant made it clear to me that the hedge would be planted at a height of 2 metres to avoid any impact on the roots of the protected tree nearby within the garden of No. 3 Hillside Avenue.

7. In considering the proposals, I agreed with the Council that it would take some time for the hedge to grow from a height of 2 metres to 4.2 metres. In any event, the Council explained within the Late Representations Report that the proposed hedge would not sufficiently reduce the impact of the development. I agreed with this position and further, in my Decision Letter, I point to the fact that screening is no justification for poor design.

8. In light of the above factors, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

David Fitzsimon

INSPECTOR