
Costs Decision

Site visit made on 10 September 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2019

Costs application in relation to Appeal Ref: APP/W4325/W/19/3230556 Little Mundens, 43 Farr Hall Drive, Heswall CH60 4SE

- 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 C Moores for a full award of costs against Wirral Metropolitan Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for a two-storey extension to the existing property and a new build property within the same plot.
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Decision

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

Reasons

2. 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. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include failure to provide evidence to substantiate its reasons for refusal on appeal, or making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant essentially relies on the fact that the Council behaved unreasonably in refusing permission against officer recommendation, in that the refusal was not based on sound and logical reasons. This is based in large part on remarks made by the Chairman of the Planning Committee at the meeting at which the application was refused. The applicant contends that it was unreasonable of the Chairman to vote to grant planning permission for the application, only to then use his casting vote to refuse permission following a tied vote. The applicant also considers that the reason for refusal was not then meaningfully explained by the Council in its appeal statement.
5. The Council for its part contends that it is legitimate for its elected councillors to discuss applications at committee, and that it should not be penalised for showing how it determines planning applications.
6. It is obviously extremely frustrating for the applicant that their proposal was refused planning permission by the planning committee against the

recommendation of the Council's officers. As the applicant acknowledges, councillors are of course entitled to disagree with their professional officers. I note the original recommendation of the Council's officers, but as a matter of principle the members of the committee were entitled not to accept this so long as a case could be made for the contrary view. In this case, I have found that the committee's reason for refusing the proposed new dwelling was well-founded. The committee was entitled to use their planning judgement, and it was not unreasonable for it to do so.

7. It is obviously irritating for the applicant that the chairman of the committee expressed doubt about the reasons for refusal and used his casting vote to refuse the application. However, following the committee's decision, the reason for refusal was clearly expressed in the Council's decision notice and explained further, although not at length, in the Council's appeal statement. Again, although I understand why the applicant is unhappy with this turn of events, I do not consider that the Council's decision was made on vague or unsupported grounds. Concerns with the detailed committee proceedings are not a matter for my deliberations but would need to be taken up with the Council.
8. The applicant also considers that the Council included inaccurate information in its case, in that it wrongly measured the distance between the existing dwelling and the proposed new dwelling on the appeal site. Paragraph 047 of the PPG indicates that local planning authorities will be at risk of an award being made against them if they provide information which is shown to be "manifestly inaccurate or untrue".
9. In this case, the applicant asserts that the distance should have been recorded as 3.0 m based on drawing A106 which they provided after submitting the planning application. The Council measured the gap as approximately 2.5 m, and they defend their use of this figure as being scaled from various drawings supplied by the applicant. It is not clear from the information provided whether this difference arises because one party has measured from walls and the other from overhanging eaves, and although drawing A106 shows a remarkably precise distance of 3.037 m measured wall-to-wall, the eaves and roofs would of course be somewhat closer than this. It is not a matter on which my decision in this case has turned and, in any event, having viewed the plans provided I consider that it is not 'manifestly inaccurate' for the Council to have come to a figure of 2.5 m for the separation distance between the existing and proposed buildings.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

M Cryan

Inspector