
Costs Decision

Site visit made on 24 September 2019

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2019

Costs application in relation to Appeal Ref: APP/C4235/W/19/3233474 175 Didsbury Road, Heaton Mersey, Stockport SK4 2AE

- 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 Mrs M Feely for a full award of costs against Stockport Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for retention of children's natural play area to rear of existing nursery and variation of condition 17 of planning permission DC/062694 to allow an increase in the number of child places.
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Decision

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

Reasons

2. Paragraph 030 of 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 makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. Whilst the Council is not duty bound to follow advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this case, the Council's Environment Noise Team had not raised any objections to the proposal in terms of adverse effects on living conditions of neighbouring occupiers in respect of noise. The alleged harm to amenity has not been substantiated other than by means of a vague assertion that an increase in child places and the size and siting of the proposed play area would result in detrimental effects to neighbouring occupiers.
5. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the proposal should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour

contrary to the guidance in the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

6. I note comments regarding the appellant's assertions that the external play area does not require planning permission. However, this matter does not alter my findings above.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that an award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Stockport Metropolitan Borough Council shall pay to Mrs M Feely the costs of the appeal proceedings described in the heading of this decision.
9. 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.

Chris Baxter

INSPECTOR