
Costs Decision

Site visit made on 15 January 2021

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2021

Costs application in relation to Appeal Ref: APP/Z4310/D/3261459 The Lodge, Hillfoot Road, Liverpool L25 7UJ

- 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 Peter Quinlivan for a full award of costs against Liverpool City Council.
 - The appeal was against the refusal of planning permission for the erection of a timber fence to the boundary of the site.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Parties in the appeal process are normally expected to meet their own expenses.
3. The applicant states that a listed building consent was required by the Council to cover the replacement fence to the Hillfoot Road boundary. While there may be disagreement over whether this was necessary or not, an application was submitted to and granted by the Council in any event. The Council did not refuse permission or pursue a case in respect of this boundary in the planning application that was subject of the appeal that I considered. The applicant has not therefore incurred unnecessary or wasted expense in pursuing the appeal as there were other elements of the scheme in dispute.
4. A picket style timber fence did once stand around at least some of the site's boundaries. The evidence did not confirm that it matched the siting of each fence forming the appeal scheme. But, even if it did, the appeal scheme comprised of fencing of a different type and scale and as such it is a new form of development.
5. Due to the multiple elements to the fencing erected and that proposed, it was reasonable for the Council to consider their respective effects in relation to the setting of The Lodge and the Woolton Conservation Area. It was also rational for the Council to engage with applicant and discuss schemes with a view to finding a solution. This is what national policy encourages. I realise that the

applicant does not consider the alternative put forward by the Council to be appropriate for the site. This is a view which they are entitled to have, but it does not necessarily mean that the Council's stance is incorrect either or that they have acted unreasonably. It is also open to the applicant and the Council to discuss potential alternatives.

6. Nevertheless, it remains the case that the Council has refused planning permission solely based on the scheme that was submitted to them. This assessment included the consideration of the 'public benefits' advanced by the applicant. While the applicant did not agree with the Council's conclusion on these, the Council has explained their reasons for reaching the judgement that it did as this is what paragraph 196 of the National Planning Policy Framework involves. Although I did consider that there would be a modest public benefit arising from the scheme, I consider that the Council acted reasonably in exercising its judgement on the substance of the case.

Conclusion

7. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Andrew McGlone

INSPECTOR