



Costs Decision

Site visit made on 1 June 2021

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2021

Costs application in relation to Appeal Ref: APP/J4423/W/21/3268334 Land Between 53 Beighton Road and 35A Greengate Road, Woodhouse, Sheffield S13 7PN

- 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 Tribeka Developments Woodhouse Ltd for a full award of costs against Sheffield City Council.
 - The appeal was against the refusal of planning permission for erection of 2 dwellinghouses.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In terms of procedural matters, a fundamental concern is that the Council has not engaged proactively and positively with the applicant. However, I have been provided with email correspondence which indicates there was some correspondence between the parties prior to the Council's decision. Whilst this occurred very late in the process, the Council was attempting to find a solution in good faith and provided the applicant with the opportunity to amend the application before it was decided. On the evidence before me it appears unlikely that further communication would have resulted in a different decision. These circumstances have led to the applicant reasonably having to pursue the matter through the appeal process.
4. The Council did not submit an appeal statement by the procedural deadline despite indicating on the appeal questionnaire that it would. However, the Council has explained that the questionnaire was filled in incorrectly and has apologised for this oversight. While greater care should have been taken in completing the questionnaire, there is no requirement for the Council to submit a statement if it considers that its delegated report is sufficient to defend its decision. The 'Procedural Guide Planning Appeals – England' makes clear at paragraph D.4.2 that the relevant documents considered during the application process should be sufficient to present the local planning authority's case. Ultimately, the extent to which the Council addresses the appeal submissions remains at their discretion when seeking to substantiate the reasons for refusal. The Council did provide a list of suggested conditions, and although

there is a dispute over precisely when the conditions were provided, the applicant was able to comment on them within a reasonable time and no delay was caused in the appeal proceedings. Accordingly, the Council's behaviour in these regards does not amount to unreasonable behaviour.

5. In relation to substantive matters, the Council's reason for refusal clearly identifies what the Council considers to be harmful and states the development plan policy and specific paragraph of the National Planning Policy Framework with which they have found conflict. Together with the delegated report I was able to understand the concerns that the Council had and assess the appeal accordingly.
6. In determining whether or not a development would be harmful to neighbouring occupiers, the Council is required and entitled to apply a degree of subjective judgement. Whilst the delegated report does not include the same level of detailed analysis provided by the applicant, it refers to matters such as the size of the neighbouring gardens, difference in site levels and aspect. As such, I am satisfied that the Council reached a reasoned conclusion having particular regard to the individual site characteristics and location of this appeal case. Moreover, there are no development plan policies which dictate separation distances, and the SPD is not clear on how much separation guidelines should be adjusted to take into account site levels and angles of view. Consequently, I cannot find that the Council behaved unreasonably in reaching a different view to my own given the subjectivity of judgements made, irrespective of the outcome of the appeal.
7. The applicant also asserts that the Council has been inconsistent in its decision making, referring to a number of planning permissions which are said to be similar to the appeal scheme. However, during my site visit I observed that even the adjacent development plots are not direct parallels in terms of separation distances, site levels and orientations. In addition, plots 2 and 3 back onto a nursery school, not a residential property. I do not have sufficient information from the applicant on why the other examples referred to demonstrate inconsistent decision making by the Council in relation to matters pertinent to this appeal. Therefore, it was not unreasonable of the Council to consider the proposal on its own merits having regard to the specific site context; an approach that I too have taken in reaching my Decision.
8. Having regard to the above and based on the evidence before me, I cannot conclude that an appeal was unnecessary in this case. The individual circumstances of the proposal necessitated assessment on its own merits given the subjectivity of issues in dispute and judgements involved. The Guidance sets out that parties in planning appeals normally meet their own expenses. The applicant, therefore, did not suffer wasted expense in pursuing the appeal, despite its outcome.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated, and therefore an award of costs is not justified.

A Caines

INSPECTOR