



Costs Decision

Site visit made on 26 October 2021

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 22 November 2021

Costs application in relation to Appeal Ref: APP/D0650/C/21/3273061 Land at Trinity Street, Runcorn

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Ben Raingill of UK Addiction Treatment Centres Group for a full/partial award of costs against Halton Borough Council.
 - The appeal was against an enforcement notice alleging the erection of two structures, a 2.1m high boundary fence and a wooden screen.
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Decision

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

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. The PPG states that a local authority is at risk of an award of costs by introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen, or through prolonging proceedings by introducing a new reason for refusal.
3. The applicant claims that the Council introduced substantial new arguments relating to highways and parking matters, among other things, while also submitting further consultation responses. This required a response that incurred additional consultancy costs, which had to be arranged within a very limited timeframe and led to prolonged proceedings.
4. The Council argues that it considered the deemed planning application required a full examination of the planning issues which, it indicates, was not necessary when it served the notice. It is also suggested that the appellant should have engaged with the Council before carrying out the work, in which case, they would have been provided with clear advice. On this latter point, the Council is reminded that the enforcement process is not punitive.
5. In enforcement proceedings, the notice issued by the Council sets out its reasons for doing so, and these are equivalent to reasons for refusal in a decision notice. The Council's reasons for issuing the notice focus entirely on matters of character and appearance and cite Policy BE1 of the Unitary Development Plan. The appellant responded to these matters in their grounds of appeal. The Council subsequently submitted its statement which expanded on the reasons for issuing the notice and, crucially, introduced further concerns regarding highways and access matters, among other things. This necessitated

an extension of the appeal timescales to allow the appellant sufficient time to engage a suitable consultant, conduct survey work and prepare a rebuttal report.

6. The reasons for issuing the notice need to be comprehensive from the outset since this provides vital information for the recipient. Decisions on whether to appeal and on what grounds are influenced by the reasons. I consider that the Council has acted unreasonably by introducing further substantive reasons for opposing the development at a relatively late stage. This has led to unnecessary expense as the applicant has had to source further consultancy services at short notice. It could be argued that the expense incurred is not unnecessary as a consultant's report would have been required had the highways grounds been included at the start. However, the applicant was forced to obtain the report at short notice, which would likely have led to higher costs. In addition, the proceedings were prolonged which required further consultancy time.

Conclusion

7. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial 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 Halton Borough Council shall pay to Mr Ben Raingill of UK Addiction Treatment Centres Group, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in defending the highways/parking matters; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Halton Borough 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.

Debbie Moore

Inspector