



Costs Decision

Site visit made on 28 June 2022

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 19 July 2022

Costs application in relation to Appeal Ref: APP/Q0505/W/22/3294540 9 Almoners Avenue, Cambridge CB1 8NZ

- 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 Paul McGilly for a full award of costs against Cambridge City Council.
 - The appeal was against the refusal of planning permission for the erection of a single dwelling with parking and supporting infrastructure along with revised access arrangements from the highway following the demolition of the existing former garage (resubmission off application reference 19/1731/FUL).
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) makes it clear that parties in planning appeals normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The applicant submits that the Council's decision was inconsistent with others made by the Council and that their reasons for refusal were not suitably justified and contained inaccuracies. They also suggest that the Council's actions resulted in the delayed refusal of an application that should have otherwise been approved, and that conditions suggested at appeal were unreasonable. Ultimately the applicant puts forward that these matters resulted in wasted expense for the applicant.
4. In issues relating to matters of character and appearance, and living conditions there is often a strong degree of judgement employed and the matters raised by the Council related to issues where there was a reasonable potential for difference of opinion. I am satisfied that the Council suitably justified its concerns within its submissions. This included detailing the existing conditions of the site and its surroundings, the contents of the works and highlighting issues which it considered would compromise the living conditions or neighbours and the character and appearance of the surrounding area. Of particular note, I do not find the lack of noise levels to result in the Council's

- case being unsubstantiated. The Council also made reference to Policies 50, 52, 55, 56 and 57 of the Cambridge Local Plan to support their case.
5. The applicant has also brought my attention to a number of examples within the Council's delegated report that they consider to be inaccuracies. I find that some of these examples, including the use of the terms 'similar' and 'unexpected' are not inaccuracies but are differences of opinion. However, it is clear that the Council did make inaccurate reference to the dimensions of the proposed dwelling. Whilst they may have made reference to the correct measurements elsewhere, I am not satisfied that the officer made their consideration against the correct measurements. As such I find that on this matter the Council made an inaccurate assertion. However, as the matter of the scale of the dwelling formed only a very small part of the overall reasons for refusal, I find that the behaviour of the Council here did not result in wasted expense at appeal.
 6. Whilst the Council's statement that there would be a new access along the side of the appeal site is not wholly accurate, it is clear that the development would significantly change the existing situation by providing a vehicular access to the rear of the site where none had previously been. Therefore, although this phrasing is unhelpful, I do not find that the Council misdirected their assessment as a result. Moreover, whilst the Council's delegated report refers to the development not conflicting with Policy 56 of the Cambridge Local Plan, this is clearly in reference to the living conditions of numbers 66 and 68 Netherhall Way, and the Council concludes its report by highlighting the conflict with Policy 56. I do not find these matters demonstrate unreasonable behaviour.
 7. Although I note disagreements regarding the rear boundary of No 68 Netherhall Way, the proposed site layout is not sufficiently clear to determine the extent that this proposed boundary would extend along the boundary. Therefore, even if I were to find that the Council's measurements were wrong in this instance, I do not find that this was unreasonable behaviour on the part of the Council as the plans are unhelpful.
 8. As set out in the associated appeal decision; from the information available to me I find that the examples of similar development raised by the appellant are not directly related to the appeal site and its context. Therefore, and as all proposals need to be considered on their own merits, I find that the Council's decision in respect of the appeal proposal was not inconsistent with the other decisions brought to my attention.
 9. I have not been provided with any substantive evidence to show that the Council fully communicated with the applicant during the planning application process. I note that the applicant attempted to initiate contact on a number of occasions but that responses were limited. Moreover, it is clear that the planning application ran over a considerable period of time, and well beyond the 8 week deadline. Nevertheless, whilst these matters would have been unhelpful for the applicant, I find it very unlikely that, given the matters of difference between the parties, greater communication or an earlier decision would have led to an approval. Moreover, it has not been demonstrated how these issues resulted in any wasted expense at appeal.

10. The appellant has made reference to a number of costs applications which they consider to be relevant to the case before me¹. I have, in so far as the details provided permit, been mindful of these cases. However, I have not been provided with the full details of each and so I do not know the context or history of each case. Moreover, whilst I note disagreement between the applicant and Council regarding the proposed conditions, I have not been provided with any substantive evidence to demonstrate that the suggestion of such conditions was unreasonable or lead to any wasted expense.
11. Therefore, I find that the work undertaken by the applicant, involved in defending the two reasons for refusal and the proposed conditions were necessary and therefore not a wasted expense.

Decision

12. In light of the foregoing, I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. I find that an award of costs would not be justified in this case.

Samuel Watson

INSPECTOR

¹ APP/C3620/W/21/3274983, APP/A2280/W/21/3271194, APP/D0840/W/21/3275523, APP/U5360/D/21/3273407 and APP/Q0505/W/20/3253430