

Costs Decision

Site visit made on 26 July 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022

Costs application in relation to Appeal Ref: APP/W3520/D/22/3295615 43 Spencer Way, Stowmarket, Suffolk IP14 1UB

- 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 Michael Melwani for an award of costs against Mid Suffolk District Council.
 - The appeal was made against the refusal of planning permission for installation of solar panels on a plain red brick wall.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and such behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant's basis for claiming full costs relates to the Council's alleged unreasonable behaviour in initially advising that permission was not required for installation of the solar panels, subsequently taking a different view and refusing the application for permission, contrary to previous indications that permission was likely to be granted.
4. The planning appeal statement includes greater detail with regard to the issues raised in this costs application and, therefore, I have had particular regard to this. The statement includes evidence in the form of the Council's e-mail dated 30 July 2021 in which the planning officer states that permission would not be required and provides the applicant with a link to the Planning Portal guidance on the installation of solar panels. This indicates that solar panels can be installed as permitted development, but that the exercise of these permitted development rights are conditional on the renewable energy equipment being sited, so far as practicable, to minimise its effect on the external appearance of the building and amenity of the area¹. This informed the Council's subsequent view that permission is required.

¹ In accordance with The Town and Country Planning (General Permitted Development) (England) Order 2014, Schedule 2, Part 14 *Renewable energy*.

5. At the time this advice was given, the applicant indicates that the officer was provided with details of the number and location of the proposed panels. However, it was only once the panels were installed that the Council decided, based on the effects which had been reported to it, that an application was required.
6. I acknowledge that the applicant is aggrieved that the Council did not provide a view on the likely effects earlier in the process before installation took place and did not advise at that stage that an application would be required. However, I also accept that the initial advice was informal, that details of the relevant permitted development rights were provided to the applicant and it was only subsequently, once the Council was able to understand the full effects of the panels in situ that were drawn to its attention, that it took the view that the proposal did not benefit from permitted development rights and that a planning application was required. From these findings, based on the information available to me and on balance, the Council's approach was not unreasonable.
7. I can find no fault with the Council's determination of the application. Its initial view, based on photographs, was that permission might be granted. However, as a general principle, a Council cannot be bound by informal advice that it provides prior to determination of an application. It was unfortunate that the applicant's expectations of a successful outcome might have been raised, but the Council explains that at that point a site visit had not been undertaken. This provided additional evidence of the effects of the panels that have been installed.
8. More generally, proposals which raise issues about the effects of development on local character and appearance involve matters of judgement. Based on the appeal submissions, and acknowledging that matters of judgement are involved here, I consider that the Council's assessment is proportionate and reasonable, including reference to relevant development plan policies, to support its judgement of the consequences of the development undertaken in this location.
9. Therefore, taking these findings as a whole, there is no basis for me to conclude that the Council's approach with regard to this proposal amounts to unreasonable behaviour on its part.
10. Accordingly, having considered this costs application on its merits, for the reasons given I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated and an award of costs is not justified.

J Bell-Williamson

INSPECTOR