



Costs Decision

Site visit made on 24 August 2022

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 21st September 2022

Costs application in relation to Appeal Ref: APP/M4320/D/22/3301602 26 Elsworth Close, Formby, Liverpool, L37 2YS

- 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 Dodd for a full award of costs against Sefton Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for front and rear extensions, internal and external remodelling – to existing dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only 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.
3. The applicant is seeking to recover the costs incurred in the appeal process. This is on grounds that the Council behaved unreasonably by reaching a decision contrary to the advice of professional officers, by not determining similar cases in a consistent manner, and by not reviewing its case promptly following the lodging of the appeal.
4. Council Members were entitled to exercise their planning judgement to reach their own decision, and to not accept the professional advice of Officers so long as a case could be made to the contrary. It is clear from the minutes of the planning committee, the decision notice and the Council's costs application rebuttal, that the Council Members did reach a reasoned decision. While I disagreed with the Council and I allowed the appeal, it does not automatically follow that the Council behaved unreasonably in this regard.
5. In terms of the consistency of decision making, my attention has been drawn to planning permission Ref DC/2015/00320 for extensions and alterations to 22 Elsworth Close. Full details of that permission have not been provided. However, the evidence indicates the development was not carried out in accordance with the permission. While it may now be lawful, the development implemented at No 22 was not considered against the development plan or approved by the Council. There is little substantive evidence before me that the development that was approved is directly comparable to the appeal proposal. Therefore, inconsistency in decision making has not been demonstrated.

6. The appeal has been dealt with through the Householder Appeals Service. As such, there is no opportunity for the Council to substantiate its reasons for refusal on appeal. It has not been demonstrated that the Council has behaved unreasonably in the appeal process.

Conclusion

7. Therefore, I find that unreasonable behaviour by the Council, resulting in unnecessary or wasted expense as described in the Planning Practice Guidance, has not been demonstrated and a full award of costs is not justified.

Sarah Manchester

INSPECTOR