The Planning Inspectorate

Costs Decision

Hearing Held on 1 November 2022

Site visit made on 2 November 2022

by M Madge Dip TP, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2022

Costs application in relation to Appeal Ref: APP/E2001/C/22/3295948
107 Marton Road, Bridlington, East Riding of Yorkshire YO16 7PX

- 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 East Riding of Yorkshire Council for a full award of costs against Mr Chris Graily.
- The hearing was in connection with an appeal against an enforcement notice alleging the unauthorised change of use from a single dwellinghouse to a mixed use as a single dwellinghouse, a commercial joiners premises and for commercial storage.

Decision

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

The submissions for East Riding of Yorkshire Council

2. The costs application was made orally at the hearing with a written copy handed up.

3. The Council claim that the ground (a) appeal had already been substantially heard and dismissed on appeal. The Council and the previous Inspector had concerns in relation to the adequacy of the Noise Report, which the appellant continues to rely upon. Whether conditions could be imposed to make the development acceptable had already been considered and dismissed by the previous Inspector. There was therefore little prospect of success with this very similar appeal.

4. The appellant has obstructed the Council's investigations, failing to provide answers about whether he has access to alternative premises. During the Hearing, the appellant stated that he had chosen not to tell that he had worked in other premises. Had the Council been aware of that information earlier, it could have led to a different course of action being taken.

5. Conflicting accounts of the business activities have continued to be provided by the appellant and his agent, which has caused the appeal to be determined by way of a hearing. Had consistent evidence been provided the appeal could have been heard by way of written representations, which would have been a quicker and cheaper alternative for all parties.

The response for Mr Chris Graily

6. The joinery business is only one facet of the alleged mixed use and evidence on the other aspects of the notice had not previously been heard. The hearing provided an opportunity for matters to be discussed and for neighbours to be heard. The Noise Report methodology was agreed, and the need for the

Council's Environmental Health Officers attendance at the Hearing is overstated. The appellant may have looked for alternative premises, but he works from the appeal site and has maintained that position throughout.

7. The hearing procedure was requested from the outset, as it is the fairest method of determination for this multifaceted issue. The Council has not previously expressed any objection to the procedure.

Reasons

8. Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs can only be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

9. The PPG advises that appellants should exercise their right of appeal in a reasonable manner. They may be at risk of an award of costs against them if the appeal had no reasonable prospect of succeeding. In enforcement appeals, this may occur when "*…it is made plain by a recent appeal decision relating to the same, or a very similar development on the same, or substantially the same site, that development should not be allowed. The appellant is at risk of an award of costs, if they persist with an appeal against an enforcement notice on the ground that planning permission ought to be granted for the development in question*"[1].

10. The previous appeal was for use of an outbuilding as an additional dwelling, the use of another outbuilding as a garage and general store, and the continued use of the commercial joinery workshop. The ground (a) appeal and the deemed application is for the retention of outbuildings and the material change in use of the land and buildings to a single dwellinghouse, a commercial joiners premises and commercial storage. While there may be some similarities between the previously proposed and unauthorised developments, the grounds of appeal in this case cover more issues than that planning permission should be granted.

11. The previous Inspector had, to some degree, based their decision upon a deficiency of evidence. The ground (a) appeal was reasonable on the basis that the previously identified deficiency could be addressed. While no further written evidence to address the deficiency was provided, the appellant's verbal submissions at the Hearing could have been sufficient. In addition, the appellant's evidence relating to grounds (c), (d) and (f) had not previously been tested.

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Madge

INSPECTOR

[1] PPG paragraph: 053 Reference ID: 16-053-20140306