



Costs Decision

Site visit made on 28 November 2022

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2023

Costs application in relation to Appeal Ref: APP/C4235/C/22/3304622 Unit 3A Demeter Buildings, Brighton Road, Stockport SK4 2BE

- 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 Mighty Micro Manchester Limited for a full award of costs against Stockport Metropolitan Borough Council.
 - The appeal was against an enforcement notice alleging Without the benefit of planning permission, addition of razor wire and metal spiked bars to the roof of the building.
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Decision

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

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.
3. The applicant contends that the Council has acted unreasonably because they exercised their powers to decline to determine a revised planning application that was submitted subsequent to an appeal decision being received on an earlier proposal to retain the razor wire and metal spiked bars. They consider that the appeal decision set out a way forward and further that the Council has failed to properly consider matters relating to The Crime and Disorder Act (C&DA), Paragraph 38 of the National Planning Policy Framework (the Framework) and the full comments made by the Designing Out Crime Officer (DOCO). This was unreasonable and as a result the applicant has incurred unnecessary or wasted expense in having to make the appeal against the enforcement notice.
4. The primary matter raised in respect of this costs application is the Council's decision to decline to determine the revised planning application submitted to them. From that decision stems the serving of the enforcement notice to seek to secure removal of the unauthorised development in the form of the razor wire and metal spiked bars. However, the question of whether or not it was reasonable for the Council to take the position it did on the revised planning application is not one that falls for myself to consider. It was open to the applicant to challenge that decision by way of a judicial review.
5. Whatever the rights or wrongs of the Council's decision on that matter, there is no dispute that the enforcement notice was issued in order to address development which amounts to a breach of planning control. Moreover, I have

concluded that the development is harmful and that planning permission should not be granted. Accordingly, I do not consider that the Council acted unreasonably in issuing the notice. Since unreasonable behaviour has not been demonstrated, it is not necessary to consider the question of unnecessary or wasted expense.

6. There is no reference to the C&DA in the Council's delegated report for the original planning application although there is consideration of the comments of the DOCO. But neither matter has a bearing on whether the appeal could have been avoided, as this relates solely to the Council's decision to decline to determine the revised planning application. These matters also do not therefore justify an award of costs on the grounds of unreasonable behaviour.

Conclusion

7. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application for costs fails.

Graham Wraight

INSPECTOR