
Costs Decision

Site visit made on 21 December 2022

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2023

Costs application in relation to Appeal Ref: APP/M1520/C/22/3293797 Land at 3 Roland Lane, Canvey Island, Essex SS8 9DW

- 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 Mrs Gina Warren for a full award of costs against Castle Point Borough Council.
 - The appeal was against the Council's decision to issue an enforcement notice against the use of the premises as a child-minding facility and a refusal of planning permission for the development including a side and rear extension to the existing garage.
-

Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. This costs application is made by the Council on the basis that the appeal was unnecessary due to the approach taken by the Council to the breach of planning control at the property.
4. There is no compelling indication that the Council failed to co-operate with the applicant; in fact, the Council's response to this application for a costs award suggests the opposite. Officers met with the applicant who was invited to make a retrospective application in an attempt to regularise the planning position. In the event that planning permission was refused the Council indicates that a timetable for relocation was discussed. An application was duly submitted and a decision was reached, although not within the eight week target.
5. The enforcement notice was issued some six weeks following the Council refusing planning permission. Two appeals ensued and both were lodged simultaneously on 25 February 2022.
6. In the circumstances, the Council cannot reasonably be criticised for its approach to this case. As planning permission had been refused the authority was quite entitled to consider the expediency of issuing an enforcement notice in an attempt to secure cessation of the use. That assessment is solely a matter for the Council and deciding to pursue formal action is not for me to

comment on as it goes beyond my remit. My role in this particular instance is only to consider the merits and wider impacts of the child-minding use.

7. Accordingly, for the reasons given above, I am satisfied that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been fully demonstrated.
8. I therefore refuse the application for an award of costs.

Timothy C King

INSPECTOR