The Planning Inspectorate

Costs Decision

Site visit made on 22 March 2023

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Costs application in relation to Appeal Ref: APP/D1590/W/22/3306058
Flat 1, 82 Undercliff Gardens, LEIGH-ON-SEA, SS9 1ED

- 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 Martin Day for a full award of costs against Southend-on-Sea Borough Council.
- The appeal was against the refusal of planning permission for development described as "extend existing detached outbuilding to form store area".

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. It indicates that all parties are expected to behave reasonably throughout the planning process. It also indicates that costs can only be awarded in relation to unnecessary or wasted costs at the appeal, although behaviour and actions at the time of the planning application can be taken into account in the consideration of whether or not costs should be awarded.

3. The appellant's application for an award of costs relies on the fact that the Planning Committee failed to accept the views of its professional officers to grant permission, and subsequently failed to substantiate the reasons for refusal by objective analysis at appeal. As a result, the appellant contends that the Council acted unreasonably and that unnecessary or wasted expense was incurred as a result. Planning Committee Members are not bound to accept the recommendations of their officers. Nevertheless, reasons for refusal should be substantiated and based on relevant evidence. The Council refused the proposal for a single reason, that the proposal would harm the character and appearance of the area.

4. The appellant has drawn my attention to the lack of any reasoned justification in the committee minutes to support the reason for refusal. I note that none of the other cases considered at the Committee meeting provided any reasoned justification for the decisions made, so whilst this lack of comment is relatively unusual, I have no reason to consider that the Committee's lack of comment was sinister or specific to this case. Furthermore, the appeal was supported by a statement from the Council which set out briefly, but clearly, the Council's

concerns. I am therefore satisfied that the Council adequately substantiated the reason the refusal.

5. Matters in relation to character and appearance almost always require an element of planning judgement. I note that although the site is largely screened by existing structures and topography, there are some available, if limited views of the site, and so it was appropriate to consider the effect of the proposal in these views. I also take into account that the Committee's role will have been hampered by the lack of any indication on the submitted plans of the other approved extensions on the site. Therefore, whilst I have concluded against the Council in this case, I do not consider that the stance taken by members was unreasonable.

6. Accordingly, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Anne Jordan

INSPECTOR