
Costs Decision

Site visit made on 21 March 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Costs application in relation to Appeal Ref: APP/ J4423/W/22/3310490 53 Carter Knowle Road, Sheffield S7 2DW

- 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 Miss Alexandra Robertson for a full award of costs against Sheffield City Council.
 - The appeal was against the refusal of planning permission for development described as: 'Change of use from "annexe ... incidental to the enjoyment of the main dwelling area no. 53 Carter Knowle Road" to independent dwelling for open market letting. (Please refer to planning approval ref: 20/03749/FUL)'.
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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. PPG explains that unreasonable behaviour in the context of an application for an award of costs may be either:
 - procedural – relating to the process; or
 - substantive – relating to the issues arising from the merits of the appeal.
3. The applicant considers that the Council gave incorrect advice at pre-planning submission stage which has led to major delays in serving the planning consent required so that the appellant cannot market the property for rent leading to loss of income and further incurrence of planning application fees and professional fees associated with submitting a new planning application and an appeal against the refusal decision.
4. The PPG advises behaviour that may give rise to a procedural award of costs includes, amongst other things; lack of co-operation with the other party or parties and providing information that is shown to be manifestly inaccurate or untrue. PPG also advises behaviour that may give rise to a substantive award of costs includes, amongst other things; refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.

5. I can understand the applicant's frustration at previous advice given by officers which suggested that the demolition was not problematic and thus causing delays. Informal advice given before an application is made is however provided without prejudice and can not pre-determine the outcome of a subsequent application.
6. The conflicting advice became apparent during the planning application process. Based on the explanation for the conflicting advice, I am satisfied that the Council had reasonable concerns about the proposed development when they determined the application. They clearly set out their reasons, albeit that previous interaction during the application process had not indicated any concerns. Moreover, the Council did advise how to deal with the situation through making an application for planning permission.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, neither a full or partial award of costs is justified.

N Teasdale

INSPECTOR