



Costs Decision

Site visit made on 13 June 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Costs application in relation to Appeal Ref: APP/P4605/W/22/3313619 69 Hartfield Crescent, Birmingham B27 7QE

- 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 M G Klair of Guardian Homes Ltd for an award of costs against Birmingham City Council.
 - The appeal was against the refusal of planning permission for the change of use from dwellinghouse (Use Class C3) to care of children (Use Class C2).
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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.
3. The applicant submits that the Council did not properly assess the proposal and did not have due regard to statutory consultees or the appellant's submissions, including the letter of support from the Birmingham Children's Trust (the BCT). They therefore state that the Council acted unreasonably, and this resulted in unnecessary expense in needing to go to appeal.
4. In issues relating to matters of character and appearance or living conditions, there is often a strong degree of judgement employed and the matters raised by the Council related to issues where there was a reasonable potential for a difference of opinion. I am satisfied that the Council suitably justified its concerns within its submissions. This included detailing the conditions of the site, its surroundings, the nature of the development and highlighting issues which it considered would result in harm to living conditions or character and appearance. Therefore, whilst I found differently to the Council, to this extent they justified their decision-making.
5. It is clear from the submissions before me that the Council were aware of the comments from the BCT. However, the Officer's report only refers to the BCT having no objection. No reference to their support of the scheme was made. I therefore cannot be certain that the Council fully appreciated the BCT comments or were mindful of them during their decision-making process. Had they done so, they may have reached a different decision regarding the whether there was a suitable justification for the loss of a residential dwelling. In not clearly considering the comments made by the BCT, the Council have acted unreasonably. However, even if the Council had found there to be a

suitable justification for the loss of a residential dwelling, the issues of living conditions, and character and appearance would still have remained. The work undertaken by the applicant, involved in defending the appeal, was therefore necessary irrespective of this behaviour and has not been a wasted expense.

6. I note that whilst some objections were received from interested parties, none were received from statutory consultees. However, the lack of objections from these consultees does not preclude the Council's ability to make a full assessment of a planning application. Moreover, the Council would not be bound to any comments received. Therefore, whilst no objections may have been received from statutory bodies, the Council have not acted unreasonably in concluding differently.
7. From the information before me it appears that the Council did not properly engage with the applicant through the planning application process. Whilst this would have been unhelpful for the applicant, I do not find that there would have necessarily been a different outcome to the planning application with better communication.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Samuel Watson

INSPECTOR