The Planning Inspectorate

Costs Decision

Site visit made on 30 May 2023

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 July 2023

Costs application in relation to Appeal Ref: APP/M4320/C/22/3303565
64 Thornfield Road, Thornton, Liverpool L23 9XZ

- 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 Mr Karim Ben-Allal for a full award of costs against Sefton Metropolitan Borough Council.
- The appeal was against an enforcement notice alleging alterations from a hipped to gable end roof to incorporate a rear dormer extension and erection of a single storey extension to the side and rear of the dwellinghouse.

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. "Unreasonable" is used in its ordinary meaning as established by the Courts[1], and not in the stricter public law definition of "Wednesbury" unreasonable. Unreasonable behaviour can be either substantive (relating to the merits of the appeal) or procedural (relating to the process) in nature. The PPG indicates that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.

3. The appellant has not submitted a specific form with respect to his application for costs against the Council. Indeed, the first reference to there being an application for costs is in his final comments dated 15 November 2022 where it is stated that the late submission of the LPA's statement adds further concern that the Council has acted unreasonably in this case. The submission then goes on to state that "*we have made a claim for costs*" and in the event that the LPA Statement was received after the 7 October, this should be added to the case for unreasonable behaviour.

4. The appellant has submitted a range of comments which challenge whether or nor it was expedient for the Council to take enforcement action, confirming his disappointment at having received an enforcement notice, questioning whether the Council's action was disproportionate and indeed whether it was fair and consistent. In these circumstances it is not for me to go searching for reasons why a costs application may be justified or to identify the particular issues that

[1] Manchester City Council v SSE & Mercury Communications Limited [1988] JPL 774

have led to the costs application and associated unnecessary or wasted expenses in the appeal process. Therefore, I have based this decision on the specific matter of the date the Council submitted their Statement of Case.

5. The Council's statement was submitted to the Planning Inspectorate and an official receipt was received on 29 September 2022, which is 6 working days before the due date and as such has not acted unreasonably. There does appear to have been a delay forwarding a copy to the appellant but that is not on the part of the Council.

Conclusion

6. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that a full award of costs is not justified.

A A Phillips

INSPECTOR