



Costs Decision

Site visit made on 18 July 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 October 2023

Costs application in relation to Appeal Ref: APP/C3240/C/22/3304248 72 Court Street, Madeley, Telford, Shropshire TF7 5EP

- 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 John Woods for a full award of costs against Telford and Wrekin Council.
 - The appeal was against an enforcement notice alleging unauthorised building works.
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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's concerns relate to the Council's initial investigation; discussions (or lack of it) between the applicant and the Council; the misplaced service of an earlier enforcement notice which was withdrawn; and, that the Enforcement Notice is manifestly unreasonable and lacks clarity.
4. The applicant states that the Council initially directed correspondence to, and incorrectly served an earlier notice on, the builder, JG Developments Ltd, who were carrying out the unauthorised works. This followed direct correspondence between the Council and a representative of the builder as opposed to Mr Woods, who is the owner. According to the applicant, little communication took place between the main parties prior to the service of the first notice. He claims that Council representatives refused to meet the builder (or other representatives) or carry out an accompanied site visit, and, failed to offer an opportunity to seek retrospective planning permission.
5. The Council's approach to planning enforcement is set out in its Planning Enforcement Policy document [Aug 2015] (the PEP). This provides for the prioritisation of breaches of planning controls and the approach to investigation and resolution. Notwithstanding that there clearly was some communication with the builder responsible for the works, the document makes clear that initial visits may be unaccompanied.
6. As the development carried out is visible from public areas bordering the site, an accompanied site visit was not necessarily required. Furthermore, it is notable that an officer had previously attended the site to consider the 2019 planning application. So far as it is alleged that the Council failed to establish

the facts in relation to the appeal notice, as I have upheld the notice, that argument is unsustainable. Concerns in relation to the service of a previously withdrawn enforcement notice are not a matter for the appeal.

7. It is not for me, in an appeal made under s174 of the Town and Country Planning Act 1990, to concern myself as to whether or not the Council's assessment of the expediency to serve an Enforcement Notice against unauthorised development was justified or not. However, given the identified conflict with the Development Plan and the Council's view that the development would not successfully obtain planning permission, under the terms of the PEP it was not incumbent on them to invite a retrospective planning application. The PEP advises that in some cases immediate formal action will be taken to remove any harm being caused. Although the Planning Practice Guidance promotes resolution between the relevant parties, it does not bind the Council to do so.
8. While there is limited evidence of the extent of communication or attempts at resolution prior to the service of the Notice, there is little to demonstrate that the Council's actions were in conflict with its locally adopted enforcement policy. If an alternative scheme or concession to alter the works carried out was proposed by the applicant or submitted to the Council for their consideration, there is little detail of it before me. Furthermore, given that the earlier notice was withdrawn, there was an opportunity to submit a retrospective planning application for some or all of the works at that time.
9. I note the applicant's claim that the Council's approach in this matter was in conflict with the Regulator's Code 2015. Although a matter outside my remit, as I have found that the Council have followed its policy relating to planning enforcement, then the clarity sought by the Code must exist.
10. The applicant highlights the views of a Council officer that the use of uPVC and composite materials would be acceptable on the site. Notwithstanding that those views were provided at officer level only, they were seemingly given in the context of planning permission ref. TWC/2019/0570, which related to alterations to the rear of the building only. Again, there is little before me to verify that the applicant sought confirmation that those views equally applied to the building's more prominent principal elevation. The Council cannot therefore be held to be acting unreasonably in providing that advice in the context of the planning permission.
11. I also note the appellant's claim that the subsequent Enforcement Notice is manifestly unreasonable and lacks clarity. However, as I have found that the applicant's interpretation that the Notice required reinstatement of features suffering from poor or substandard condition was misplaced, and that the Notice seeks only remedy consistent with the unauthorised development's conflict with the development plan, I cannot conclude that it was unreasonable or lacks clarity.
12. For the above reasons, I cannot find that unreasonable behaviour resulting in unnecessary or wasted expense has occurred. An award of costs is not therefore warranted.

R Hitchcock

INSPECTOR