



Costs Decision

Site visit made on 9 August 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Costs application in relation to Appeal Ref: APP/M1595/W/22/3302331 41 Southend Road, Stanford Le Hope SS17 0PQ

- 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 Paul Moss for a full award of costs against Thurrock Borough Council.
 - The appeal was against the refusal of planning permission for replacement dwelling house towards the rear of existing development site.
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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. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal and with respect to the substance of the matter under appeal. Examples of unreasonable behaviour may include preventing or delaying development which should clearly be permitted; failure to produce evidence to substantiate each reason for refusal on appeal; or vague, generalised, or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant for costs contends that the appeal was unnecessary, and the Council did not carry out the appropriate planning balance exercise as part of the assessment of the application. Moreover, they consider that concerns with respect to the effect of the proposal on the character and appearance of the area are unevidenced, conflict with the content of the Council's officer report and do not stand up to robust interrogation.
5. Additionally, the applicant for costs highlights that the reasons for refusal set out in the Council's decision notice and officer report differ. As a result, they contend that this required additional work for the applicant in preparing the initial appeal submission, and when the effect of the proposal on the character and appearance of the area was later identified as a main issue. Finally, the applicant considers that the Council's failure to respond to correspondence from the Planning Inspectorate is further evidence of unreasonable behaviour.
6. The Council's officer report clearly sets out reasoning for their concerns regarding the effect of the proposal on the character and appearance of the area, with reference to relevant national and local planning policy. It will be

seen from my decision that I agree with the Council's judgement in respect of this matter, and in respect of the effect on the living conditions of the occupiers of 39 Southend Road set out in the second reason for refusal.

7. The officer report also considers the effect of the proposal on the supply of housing and alleged benefits such as improvements to the site access. While it is not clear whether a balancing exercise pursuant to Paragraph 11(d) of the National Planning Policy Framework was carried out, the evidence before me regarding the Council's housing land supply position is not conclusive.
8. Moreover, having balanced the harmful effects against the benefits of the proposal, I have found there were sufficient grounds for refusing planning permission in this instance, even if Paragraph 11(d) were applicable. This therefore would not have altered the outcome of the application. Accordingly, I do not find that the Council acted unreasonably in refusing planning permission or that the appeal could otherwise have been avoided.
9. The Council's first reason for refusal set out in the decision notice appears to repeat concerns regarding living conditions of neighbours set out in the second reason for refusal. However, it has not been demonstrated how this has created additional work for the applicant or expanded the scope of the appeal, given they would have had to respond to the second reason in any event.
10. The effect of the proposal on the character and appearance of the area was not explicitly listed as a reason for refusal in the Council's decision notice. However, concerns in respect of this matter were clearly articulated within their officer report. The discrepancy in the Council's evidence is acknowledged in paragraph 4.42 of the applicant's statement of case. These concerns were thus known to the appellant and do not amount to introduction of new issues.
11. I recognise that the Council failed to provide clarification with respect to the above discrepancy when requested. However, even if I were to find that the Council's behaviour in this regard was unreasonable, it has not been clearly demonstrated how this has resulted in the applicant incurring unnecessary or wasted expense in the appeal process.

Conclusion

12. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Ryan Cowley

INSPECTOR