



Costs Decision

Hearing held on 21 November 2023

Site visit made on 1 December 2023

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Costs application in relation to Appeal A Ref: APP/J4423/W/23/3324229 and Appeal B Ref : APP/J4423/W/23/3324231

Land bounded by Rockingham Street and Wellington Street and Trafalgar Street, Sheffield

- 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 Code Living for a full award of costs against Sheffield City Council.
 - The appeals were against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission under Section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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Decision

1. The application for an award of costs is refused.

The submissions for Code Living

2. The costs application was submitted in writing at the hearing.

The response by Sheffield City Council

3. The response was made orally at the hearing.
4. The Council considers that it has not acted unreasonably. As set out in its statement of case and in its legal submissions to the hearing, the Council's position is that the proposals cannot be taken as being within the scope of changes permissible under section 73. The Council was entitled to come to that view. This is a full planning permission and reference has to be made to the plans. It is a hopeless argument to contend that the Council acted unreasonably.

Reasons

5. 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.
6. The PPG gives examples of where a party may have acted unreasonably. Three examples from the PPG are quoted by the applicant. These are preventing or delaying development which should clearly be permitted; acting contrary to or not

following well-established case law; and not reviewing the case promptly following the lodging of an appeal. It is also clear that costs have been incurred by the applicant in defending the appeal.

7. The applicant's submitted costs application rests upon its case on the appeals, that is that the consideration of the applications is within the scope of section 73 legislation. In my appeal decisions I have found that is. Nevertheless, I consider that the Council was entitled to come to a different view and did so on the basis of taking and considering legal advice.
8. Taking legal advice and acting upon it was a reasonable approach for an authority in such circumstances. It is clear in the legal submissions made to me in the appeals, that different interpretations were placed on the case law examples in the authorities bundle, and that there is no directly comparable authority to the particular aspects of the applications before me i.e. a full planning permission with the words 'up to' in the description of development.
9. Whilst I allowed the appeals, given the circumstances set out above I consider that the Council has not acted unreasonably in this case.

Conclusion

10. For the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Mike Worden

INSPECTOR