Costs Decision

Site visit made on 16 October 2023

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 January 2024

Costs application in relation to Appeal Ref: APP/V0728/W/23/3326425
171-173 Borough Road Store, Redcar Lane, Redcar, Redcar and Cleveland TS10 2EJ

- 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 Mr R Singh for a full award of costs against Redcar and Cleveland Borough Council.
- The appeal was against the refusal of planning permission for proposed demolition of garage and replace dwelling.

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. Paragraph 031 of the PPG states that unreasonable behaviour, in the context of an award of costs, may be either procedural or substantive.

4. Paragraph 047 of the PPG provides examples of unreasonable behaviour by a local planning authority in a procedural sense and include, amongst other matters, lack of co-operation with the other party or parties, and deliberately concealing relevant evidence at planning application stage or at subsequent appeal.

5. Paragraph 049 of the PPG provides examples of unreasonable behaviour by local planning authorities in a substantive sense and include, amongst other matters; preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other material consideration; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and refusing planning permission on a planning ground capable of being dealt with by conditions.

6. The applicant's costs application relates to both substantive and procedural matters.

7. The applicant states that the appeal was not considered on plans submitted to the Council on 11 April 2023. The Council's Decision Notice lists drawings which were taken into consideration within their assessment. In this case it states

drawings received on the 12 April 2023. Whilst the Decision Notice does not specifically refer to specific Revisions, the Officer's Report does refer to the inclusion of a hipped roof within their assessment. Furthermore, the Council had provided drawings 001 Rev D Proposed Plans & Elevations and 002 Rev B Site & Location Plan within their submission. Therefore, I consider these to be the up-to-date proposal and I am satisfied that the Council had assessed those drawings submitted by the applicant on 11 April 2023. As such, there was no unreasonable behaviour on the part of the Council.

8. With regards to the applicant's claim that the Council have acted unreasonably as the proposal complies with policy. The reasons for the refusal were set out in the decision notice and clearly state which policies within the Redcar and Cleveland Local Plan the proposal would conflict. In my view the Council's behaviour has not been unreasonable in this regard, as I have found the proposal to be contrary to the development plan when taken as a whole.

9. With regards to the Council's assertion regarding the age of the buildings. Whilst I agree that the buildings are not Victorian, the reasons why the Council refused the appeal application are clearly set out on the decision notice and are therefore not vague or generalised. I therefore do not find that the Council's behaviour was unreasonable.

10. Furthermore, as the applicant has clearly stated that they have worked with the Council throughout the application, I do not find that the Council have acted unreasonable in this regard.

11. Moreover, the applicant has not demonstrated that they have incurred unnecessary expense and as such I do not consider that the Council acted unreasonably.

Conclusion

12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

L Clark

INSPECTOR