



Costs Decision

Site visit made on 2 January 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2024

Costs application in relation to Appeal Ref: APP/Q4245/W/23/3320579 299 Ashley Road, Hale Barns, Trafford WA14 3NH

- 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 Calderpeel Architects for a full award of costs against Trafford Metropolitan Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for the creation of new private way, and erection of fencing, gates and associated landscaping.
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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. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the procedural handling of the case, and the substance of the matter under appeal. The applicant's costs claim is made on the grounds that the planning application was over publicised and that this led to a determination by the planning committee rather than via delegated powers. Furthermore, the applicant advises that members of the planning committee disregarded the officer's assessment of the proposal and did not propose a clear reason for refusal. It is suggested that this led to the applicant having to fund the cost of a planning agent to submit an appeal.
4. The Council notified 18 properties upon receipt of the planning application, 10 of which are understood to be flats within 285 Ashley Road. It considers that this complies with its Statement of Community Involvement (SCI) which requires direct consultation to any property which shares a boundary with an application site.
5. The location plan indicates that the appeal site shares a boundary with a relatively large number of properties including the nearby flats, due in part to the extent of the site edged red. The amount of consultation does not therefore appear to be particularly excessive and instead is generally consistent with the Council's SCI, as well as the requirements of the Town & Country Planning (Development Management Procedure) (England) Order 2015.

6. Even if less consultation had occurred, that would not preclude other local residents or members of the public from commenting on a planning proposal if they became aware of an application. I cannot therefore be certain that less consultation would have prevented the referral of the planning application to the planning committee.
7. With regard to the outcome of the planning committee meeting, it is part of planning officers' remit to assist the decision-making process. They can advise the committee, but the Council is not duty bound to follow the advice of its professional officers. Even if officers had to assist members of the committee in articulating the reasoning for their decision, that does not amount to unreasonable behaviour.
8. The reason for refusal as set out on the Council's decision notice is clearly articulated, complete and relevant to the proposal, referencing the relevant policy of the development plan that the proposal was considered to be in conflict with. The Council's statement of case explains the reason for refusal in more detail. Moreover, even if the planning committee was confused about the impact of the proposal on the Green Belt as suggested by the applicant, the proposal was not ultimately refused on Green Belt grounds.
9. In my decision I have found that the Council had reasonable concerns regarding the impact of the proposed development on the character and appearance of the area, which is a matter of planning judgement. Clearly there is a difference of opinion between the parties on the planning merits of the proposal. However, on the evidence before me I am satisfied that the Council substantiated its reason for refusal and that this does not amount to unreasonable behaviour.
10. Given that I have found that unreasonable behaviour has not occurred, I am not required to consider whether unnecessary expense has ensued.

Conclusion

11. Whilst I acknowledge the applicant's evident frustration with their perception of the Council's approach, insofar as is relevant to this costs application, based on the evidence before me, I find that no action or inaction, taken by the Council amounts to unreasonable behaviour as described in the PPG, directly resulting in unnecessary or wasted expense at appeal. An award of costs in this instance, has not been justified.

M Clowes

INSPECTOR