The Planning Inspectorate

Costs Decision

Site visit made on 31 January 2024

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th February 2024

Costs application in relation to Appeal Ref: APP/N4720/C/23/3331169
458 and 460 York Road, LEEDS, LS9 0HH

- 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 Leeds City Council for a full award of costs against Mr Yasir Khan.
- The appeal was against an enforcement notice alleging the erection of an extension spanning the rear of both properties.

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 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 costs regime seeks to ensure the presentation of full and detailed evidence to support the case. The Council's concerns include the appellant's appeals on grounds (b) and (c), and his misinterpretation of the status of developments previously approved by virtue of Article 3(1) and Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

4. In enforcement appeals it is not uncommon for applicants to conflate grounds (b) and (c). The additional complexity often associated with the various grounds of appeal in enforcement cases, and opportunities for overlapping arguments between the various grounds, can cause this to arise. As such, I do not consider the largely unargued ground (b) was tantamount to unreasonable behaviour.

5. The basis for the ground (c) appeal and, indeed, a significant argument in the ground (a) appeal, arose from the contention that the previous grants of planning permission by the GPDO had been implemented. Although, as I have found, this was technically incorrect, given the comparable footprint and some other similarities, that claim is not an unreasonable conclusion for the appellant to have come to. It simply lacked accuracy in interpretation of the intricacies of the GDPO and misapplied it.

6. Furthermore, for the purposes of a ground (a) appeal, it is not unreasonable for the applicant to legitimately expect a development with similarities to the combined developments shown on application refs. 16/06684/DHH and

16/06685/DHH to be given some weight. A fallback position can be a valid ground (a) consideration.

7. Moreover, it is not necessarily obvious that the regime for assessment of development under the provisions of Class A.1(g), and Conditions set out in paragraphs A.3 and A.4 of Part 1 of the GPDO, is different to assessment of the deemed planning application under ground (a). One is subject to the policies in the development plan; the other may or may not be. It seems to me that the expectation of a like-for-like assessment was a reasonable expectation.

8. The fact that the appellant did not act upon the Council's encouragement for him to submit a planning application to regularise the development or seek to address their concerns, is not a relevant matter in consideration of a claim for costs. In enforcement cases, it is not necessary for 'as built' plans to be provided to support claims in relation to developments.

9. For the above reasons, I find unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not warranted.

R Hitchcock

INSPECTOR