



Costs Decision

Site visit made on 26 June 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 9 August 2024

Costs application in relation to Appeal Ref: APP/W4705/W/24/3338428 Eldwick Grange, Sheriff Lane, Eldwick, Bingley, Bradford BD16 3EN

- 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 Alan Tomlinson of Eldwick Properties for a full award of costs against City of Bradford Metropolitan District Council.
- The appeal was against the refusal of planning permission for development of 3 new detached houses with new section of adopted road and turning head and private drive.

Decision

1. The application for an award of costs is allowed in part in the terms set out below.

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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
3. The applicant has set out several matters that it considers amount to unreasonable behaviour, including the first reason for refusal being vague and generalised, and the minutes of the Planning Panel meeting providing no analysis or clarity, or covering any discussion with regards to overlooking or privacy. Furthermore, the Council has failed to rectify this in an appeal statement. In addition, the applicant considers that the second refusal reason with regards to highway safety was not consistent with the previous permission on this site for three bungalows¹, with a vague and generalised reason. This, therefore, represents unreasonable behaviour.
4. I have found in my appeal decision that the proposed development would affect the living conditions of the occupiers of No 3 regarding overlooking. Whilst the Council's officer report discusses the relationship of Plot 3 of the proposal with No 3, issues of daylight and outlook have not been covered, despite third party concerns that have been raised. Moreover, an appeal statement has not been provided to address these concerns. Therefore, I find that the first reason for refusal is vague and generalised and does not adequately detail the issues that could affect the living conditions of neighbouring residents.

¹ Ref 12/01409/OUT

5. The Council's minutes set out the discussion that took place at the meeting, including the questions which were asked by panel members. Whilst these may not be as wide ranging as the applicant would have liked, panel members are entitled to ask those questions they consider most relevant. The panel minutes provide an official record of the meeting and there is little substantive evidence to suggest that these did not adequately record the discussion. Whilst the minutes do not reference the previous planning permission² on this site, the officer report does, and so members of the panel would have been aware of the planning history of the site. Moreover, that decision was made some twelve years ago, and was for a different scheme.
6. In terms of the second reason for refusal, I have found that the proposed development would not have an unacceptable effect on highway safety. Whilst the Highway Officer did not object to the proposal, the members of the panel were entitled to form a different opinion, particularly because of the many objections and concerns regarding traffic and highway safety along Sherriff Lane. Therefore, I do not consider that in relation to the second reason for refusal that unreasonable behaviour has been demonstrated.

Conclusion

7. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in part, relating to the Council's first reason for refusal. Therefore, a partial award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the City of Bradford Metropolitan District Council shall pay Mr Alan Tomlinson, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of preparing for and responding to matters relating to the first reason for refusal on the Council's decision notice, with such costs to be assessed in the Senior Courts Cost Office if not agreed.
9. The applicant is now invited to submit to City of Bradford Metropolitan District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M J Francis

INSPECTOR

² 12/01409/OUT