

Costs Decision

Hearing held on 7 December 2016

Site visit made on 7 December 2016

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30th December 2016

Costs application in relation to Appeal Ref: APP/T3725/W/16/3155217 Unit 1, Moss Street, Leamington Spa, Warwickshire CV31 2DA

- 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 Sureway Property Services Group for a full or partial award of costs against Warwick District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for 32 bed HMO (in association with 15 bed HMO previously approved under reference W15/0994 dated 10 August 2015) following demolition of existing commercial buildings on land at the rear of 1-3 Althorpe Street, Royal Leamington Spa.
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Decision

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

The submissions for Sureway Property Services Group

2. Updated evidence over local on-street parking availability, and a solution to the overlooking concerns by means of a number of oriel windows, had been produced. A planning condition restricting the development to student accommodation had been offered and the proposal provides greater on-site car parking provision than the 10% permitted for the recently approved Alumno halls of residence, under construction nearby to this appeal. The Council had also not produced an appeal statement or given weight to the contribution this scheme made to housing provision in a situation where a 5 year supply of sites cannot be demonstrated.

The response by Warwick District Council

3. The Council had not disregarded the parking evidence or the proposed oriel windows. The decision had taken account of the difference between the appeal scheme and the Alumno development. The officer's report contained all of the case the Council had wished to make.

Reasons

4. The national Planning Practice Guidance (PPG) states that parties in planning appeals normally meet their own expenses but that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in this context may be procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
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5. This application has been made with reference to the examples of the types of behaviour that may give rise to a substantive award against a local planning authority set out in paragraph 049 of the PPG. The examples of unreasonable behaviour cited in this application are that the Council had prevented a development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other material considerations, failed to produce evidence to substantiate each reason for refusal and offered vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis.
6. Although my decision was to allow the appeal, I consider the officer's report did support a case to persuade me this was a balanced matter and not a proposal which should clearly have been permitted based on the adopted and emerging development plans and the National Planning Policy Framework. The Council had in the officer's report, and supporting evidence, adequately substantiated its reasons for refusal and not relied on evidence that I find to comprise either vague, generalised or inaccurate assertions about this proposal's impact.

Conclusion

7. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. I conclude therefore that an award of costs in this case is not justified.

Jonathan Price

INSPECTOR