
Costs Decisions

Site visit made on 4 January 2016

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 30 January 2017

Costs applications in relation to Appeal Ref: APP/W3005/W/16/3159293 and APP/W3005/W/16/3159317

79 Outram Street, Sutton in Ashfield NG17 4BG

- 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 Sarkis Mahseredjian for a full award of costs against Ashfield District Council.
 - Appeal Ref APP/W3005/W/16/3159293 was against the refusal of planning permission for the Change of Use / Extensions from A5 use Hot Food Takeaway with flats above to 6 no. Studio Apartments and a one bedroom Detached Dwelling.
 - Appeal Ref APP/W3005/W/16/3159317 was against the refusal of planning permission for the proposed Change of Use / Extensions from A5 use Hot Food Takeaway with flats above to 4 Studio Apartments, a one bedroom Flat and a one bedroom Detached Dwelling
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Decision

1. The applications for the award of costs are refused.

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. The applicant submits that the Council has acted unreasonably due to a lack of professional conduct and timely communication during the application process for both planning applications.
 4. From the correspondence before me I note that the applicant requested feedback and expressed a wish to work together in order to obtain planning approval. The Council provided feedback on the proposals 7 weeks after the submission of the application, advising their concerns and suggesting a number of residential units which may overcome their concerns. From the information before me, it was clear that the suggested approach not acceptable to the appellant.
 5. While the Council were relatively late in providing their feedback, this was given within the statutory timeframe for dealing with the applications. Moreover, it will be seen from my decision that I agree with Council and that there were sufficient grounds for refusing planning permission for both applications in respect of living conditions and in respect of harm to the character or appearance of the area. With specific regard to the shopfront
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while the applicant notes that this could be addressed by condition, I found that this would not be reasonable.

6. On the basis of all of the above, it therefore follows that a more helpful approach would not have resulted in the appeals being avoided altogether and thus I find no unreasonable behavior in this respect.
7. In light of my decision, I am also satisfied that the Council has shown that they did not prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

Conclusion

8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.

C Searson
INSPECTOR