
Costs Decision

Site visit made on 24 January 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 16th February 2017

Costs application in relation to Appeal Ref: APP/Q3060/W/16/3163072 104 Broxtowe Lane, Nottingham NG8 5NJ

- 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 Chandra Sammani for a full award of costs against City of Nottingham Council.
 - The appeal was against the refusal of planning permission for a change of use to two self-contained flats.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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 appellant's substantive application for costs relies in the main on the fact that the issue of noise transmission is more properly addressed through the Building Regulations than the planning process.
 4. The Council officer's report and the Council's appeal statement set out in some detail, including reference to a previous Inspectors decision, why it considers that sound insulation would not adequately mitigate potential noise from the development, and the reason for refusal makes reference to relevant policies in the development plan.
 5. Although I have allowed the appeal and did not consider that the appeal case referred to by the Council was sufficiently similar to the present case to provide a precedent, I was not persuaded that the typical construction detail included in the Building Regulations would provide sufficient certainty that there would not be harm to the living conditions of the occupiers of the adjoining property. Within this overall context it is not unreasonable for the Council to have reached the conclusion that it did.
 6. Whilst the Council's concern in respect of the increased use of the garden was not so well elaborated on, this was not the main thrust of the Council's case, nor was the evidence so scant, that the reasoning behind the refusal of planning permission was not apparent.
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7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

John Dowsett

INSPECTOR