
Costs Decision

Site visit made on 28 February 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 31 March 2017

**Costs application in relation to Appeal Ref: APP/A0665/W/16/3164377
27 Gladstone Road, Chester, Cheshire, CH1 4BZ**

- 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 Gordon Emery for a full award of costs against Cheshire West & Chester Council.
 - The appeal was against the refusal of planning permission for a development described as *"change of use from class 3 (residential) to class 4 (small HMO)"*.
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Decision

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

Reasons

2. 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.
 3. The appellant submits that the Council has acted unreasonably in that it has departed from its own pre-application advice, and that the second reason for refusal is not consistent with a recent appeal decision on a nearby site.
 4. With regards to the Council's pre-application advice to the appellant, this clearly states that it is provided without prejudice to the formal consideration of a planning application. Whilst I appreciate the appellant's concerns regarding consistency, the Council is not bound by advice given at the pre-application stage. It therefore did not act unreasonably in coming to a different view when determining the planning application.
 5. I note the findings of my colleague in relation to the appeal at 5 Chichester Street (ref APP/A0665/W/14/3001233). However, that property is some distance from the appeal site. The Council's second reason for refusal also relates to the specific parking and traffic situation on Gladstone Road, and is not generic to the wider area. Accordingly, I do not consider that the appeal decision at 5 Chichester Road set a precedent that the Council was bound to follow in this case.
 6. Overall, whilst I have found that the appeal should succeed, a detailed and reasoned case has been made to substantiate both reasons for refusal, and the Council did not act unreasonably in refusing the application.
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7. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR