
Costs Decision

Site visit made on 25 April 2017

by **Paul Jackson B Arch (Hons) RIBA**

Decision date: 05 May 2017

Costs application in relation to Appeal Ref: APP/M3835/W/16/3167411 16A/B Southcourt Road, Worthing, West Sussex, BN14 7DQ

- 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 Antony Crowley for a full award of costs against Worthing Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for extension and alteration to create 2 x 1 bedroom self-contained flats.
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Decision

1. The application is refused and no award of costs is made.

Reasons

2. The gist of the appellant's claim is that in considering the application, the Council ignored national policy in the form of the National Planning Policy Framework (NPPF) which post-dates the adopted Worthing Local Plan and the Worthing Borough Core Strategy. The appellant notes that the NPPF applies a presumption in favour of sustainable development and aims to substantially boost the supply of housing. It is also alleged that the grounds for refusal ignore the detailed information provided which support the merits of the scheme and that the SPD referred to pre-dates the NPPF.
 3. The Council responds that the SPD was adopted only one month before issue of the NPPF and is consistent with the national objective of ensuring that good design makes places better for people. It is also a response to growing concern over the size of flats being provided in the Borough. The Core Strategy and Local Plan policies referred to in the reasons for refusal are consistent with the aims of the NPPF and attract statutory weight.
 4. Planning Practice Guidance (PPG) of March 2014 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 or wasted expense in the appeal process. The PPG says that local authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal or in relation to procedural matters. This can be by unreasonably refusing or failing to determine planning applications, by unreasonably defending an appeal or, for instance, a failure to co-operate with the other party.
 5. Local Planning Authorities are able to adopt guidance to control accommodation standards to suit circumstances in their areas, as Worthing has done. The NPPF provides no specific guidance on what floor areas might be appropriate for any
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particular dwelling unit and the more recent national technical standards are not mandatory. The Council's suggested minimum areas for Houses in Multiple Occupation provide further guidance which is helpful in deciding what area might be acceptable in any particular case.

6. The Council provided helpful and constructive advice during consultation on the application for 2 No. 1 bed self-contained flats. This led to a significantly improved scheme for bedsits being provided later in the process in June 2016. I have decided that the planning merits of the scheme are such that planning permission should be granted, but that does not mean that the Council was unreasonable in refusing permission. The acceptability of the proposal was essentially a matter of judgement on the floor area and arrangement of the first floor accommodation. The re-categorisation of the unit as a bedsit to which a lower floor area standard applies, would have been of little help in making that judgement as different criteria would have applied. Many bedsits share proper food preparation and dining areas and often, reasonable gardens, as does the example quoted by the appellant at Selden Road.
7. In the event, the Council applied the standard appropriate for a studio flat. The Council had to decide, on balance, whether the limited facilities associated with this unit, which would be about 11 square metres short in the living, cooking and eating area and of limited width, were sufficient to provide, overall, an acceptable standard of accommodation. Nothing has been presented to me to suggest that their decision was unreasonable. Moreover it is evident from the Officers' Report that the Council was fully aware of the lack of an up-to-date housing supply and the NPPF presumption in favour of sustainable development.
8. I have taken account of the failure of Council officers to inspect the interior in connection with this application, but have no reason to doubt that professional officers could make an informed judgement from inspecting the exterior together with the photographs taken of the interior at a previous visit by enforcement officers.
9. The appellant submitted revised drawings more than 6 months after his initial application. Whilst the Council was subsequently tardy in issuing its decision, this did not involve the appellant in any additional costs in relation to the subsequent appeal.

Conclusion

10. I conclude that no unreasonable behaviour has been demonstrated that justifies an award of costs and the application fails.

Paul Jackson

INSPECTOR