
Costs Decision

Site visit made on 12 June 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 27 June 2017

Costs application in relation to Appeal Ref: APP/W4325/W/17/3171320 Laird Street Police Station, Laird Street, Birkenhead CH41 7AJ

- 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 Dr Ahmed for a full award of costs against Wirral Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for 'change of use to 10 bed HMO, window openings and ramp removal'.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes substantive matters such as preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Unreasonable behaviour also includes failure to produce evidence to substantiate a reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. The applicant's costs application relates to each of these substantive matters listed as examples, with specific reference made to the approach taken by Members of the Planning Committee in making their decision.
 4. The reason for refusal set out in the decision notice is complete, precise and specific to the application. It clearly identifies what the Council considers to constitute harm and states the policy of the Unitary Development Plan for Wirral (UDP), to which it considers that the proposal would be in conflict, together with the related principles of the National Planning Policy Framework (the Framework). Furthermore, the Council's evidence includes a statement of case which seeks to substantiate the reason for refusal, given that the decision taken at the Planning Committee was different to officer recommendations. In that respect, I consider that the Council did substantiate the reason for refusal on appeal in terms of the judgements made at the time of decision, notwithstanding the appeal outcome.
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5. It will be seen from my decision that I take a different view to the Council's Planning Committee and find no harm relating to the development in terms of the living environment for future residents. However, such a conclusion reflects a matter of judgement on a subjective issue, where there is no policy in the UDP or an SPD that provides specific guidance on standards for communal facilities for HMOs including number of WCs/ shower rooms per bedrooms or residents. Consequently, despite the outcome of the appeal, I cannot conclude that the Members of the Planning Committee behaved unreasonably in reaching a different view to my own, even though contrary to the officer's report and recommendation.
6. Having regard to the above, I cannot conclude that the Council prevented or delayed development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. As the Council have substantiated the reason for refusal and the judgements made reflected objective analysis on subjective issues, I do not consider that its behaviour was unreasonable or that an appeal was unnecessary in this case. Previous appeal decisions relating to HMOs in Wirral^{1&2} have been brought to my attention where Inspectors reached a different conclusion to my own based on subjective judgements relating to alternative levels of communal facilities and numbers of bedrooms / residents. Consequently, it is reasonable that the individual circumstances of the proposal necessitated assessment on its own merits given the subjectivity of issues in dispute and judgements involved. The applicant, therefore, did not suffer wasted expense in pursuing the appeal, irrespective of its outcome.

Conclusion

7. I conclude that, on the basis of the evidence before me, it has not been demonstrated that the Council behaved unreasonably or caused unnecessary or wasted expense in so far as an award of costs could be justified. I, therefore, determine that the costs application should fail and no award is made.

Gareth Wildgoose

INSPECTOR

¹ APP/W4325/A/13/2191054 – 63A Argyle Street, Birkenhead, Wirral CH41 6AB - Dismissed - 4 June 2013

² APP/W4325/A/13/2208022 - 151 Victoria Road, Wallasey, Merseyside CH45 9LB - Dismissed - 24 March 2014