



Costs Decision

Site visit made on 23 May 2017

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 12th July 2017

Costs application in relation to Appeal Ref: APP/U4610/W/17/3168782 Spiritualist Church of Christ, Villiers Street, Coventry CV2 4HP

- 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 Jack Meahet, MJ Phoenix Property Ltd for a full award of costs against Coventry City Council.
 - The appeal was against the refusal of planning permission for the erection of 18 studio apartments and associated vehicle and cycle parking.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) makes it clear that parties in planning appeals normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The PPG provides examples of circumstances which may lead to an award of costs against a local planning authority. These include 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; providing vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and failure to produce evidence to substantiate each reason for refusal on appeal.
4. The applicant submits that the Council should have followed the advice of its planning officer and the highway authority and granted planning permission for the development. It is submitted that the Committee did not visit the site for themselves and relied on a Powerpoint presentation which included photographs of the site and Villiers Street. Despite this and the Council having no adopted parking standards, the Committee refused the application. The applicant contends that given these matters, the application should have been deferred, that a site visit by the Committee should have taken place and that further information should have been sought.
5. The applicant submits that the Council's decision was not based on sound planning reasons. The refusal of planning permission has resulted in delays developing the site. It has also resulted in unnecessary or wasted expense in lodging the appeal including the planning consultant's fees for drafting the

appeal statement, undertaking a parking survey, and submitting the appeal and costs application. Further costs include the interest payments that have accrued on the purchase of the site during the appeal process, and loss of profit from developing the site.

6. The Council submit that the Planning Committee did not act unreasonably in refusing the planning application. The application was finely balanced and the Committee was entitled to come to the conclusion that it should be refused. It is submitted that neighbour representations did not have undue influence in the decision. Furthermore, whilst the opinion of the Highway Authority was that there would be no severe impact, this is not the same as saying that there would be no impact. The unnecessary and wasted expense suggested by the applicant in respect of interest payments on the purchase of the site and loss of profit from delay in developing the site cannot be recouped as part of an application for costs. This is set out clearly in the PPG.
7. Although the Committee did not agree with the planning officer's recommendation to approve the planning application, it made its decision after considering a detailed officer report which included development plan policies, consultation responses and representations made by nearby occupiers. Several nearby occupiers raised the issue of car parking in the area and the effect the scheme would have on this. On this basis, it was not unreasonable of the Committee to come to a different view to its officer in this regard. It is not necessary for a Committee to visit each and every site they consider development proposals on; the visual presentation made to them would have been likely to provide useful information relating to the site and its surroundings.
8. However, the Council failed to provide substantive evidence to demonstrate its concern that the scheme would result in harm to highway safety. Such evidence could have included accident records or evidence to demonstrate parking stress. In this regard unreasonable behaviour has been demonstrated.
9. However, given the issues in this case, the work undertaken by the applicant including the parking survey was a necessary part of the appeal process. I am satisfied that unnecessary or wasted expense in this regard was not incurred.
10. In terms of the applicant's assertion about expenses incurred from interest payments and potential lost revenue, I concur with the Council that the costs regime does not extend to compensation for indirect losses, such as those which may result from a delay in obtaining planning permission (paragraph 32 of the PPG).
11. In light of the foregoing I conclude that the Council acted unreasonably in refusing the application and then failing to substantiate its concern at appeal. However, this did not result in unnecessary or wasted expense on the applicant's behalf, as the work undertaken in respect of the appeal was a necessary part of their case. Unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not therefore been demonstrated. The application for an award of costs is therefore dismissed.

R C Kirby

INSPECTOR