
Costs Decision

Site visit made on 18 July 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 7th August 2017

Costs application in relation to Appeal Ref: APP/N4720/W/17/3170345 16 Harehills Lane, Leeds, LS7 4HD

- 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 I Clarke for a full award of costs against Leeds City Council.
 - The appeal was against the refusal of planning permission for two additional apartments in the roof space of application reference 15/05497/FU.
-

Decision

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

Reasons

2. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, it may be subject to an award of costs.
3. The proposed parking and amenity space provision was below that suggested in the Council's *Neighbourhoods for Living* Supplementary Planning Guidance (SPG 13) and the Supplementary Planning Document *Street Design Guide*. These documents provide for some flexibility in applying the standards but this does not mean that the standards are to be ignored.
4. Subjectivity is involved when applying flexibility. The Council substantiated its refusal of permission by explaining that the bus stop with the higher frequency service was somewhat far from the site and that the nearest bus stop did not have a high frequency service. It also explained that on-street parking can sometimes create highway problems. In respect of amenity space, the Council was clear that the provision is already below what it would normally expect and that it had already been flexible when granting permission for the existing flats. The Council did consider the existence of the park but it was entitled to come to the conclusion that the park could not address the further shortfall as on-site amenity space is of a different nature to public space. Whilst I have come to different conclusions to the Council in respect of both parking and amenity space provision, this does not mean that the Council's approach was unreasonable.
5. The appellant also alleges that there is no policy or case law that suggests windows should be looked out of. However, there is clear planning policy, which I have quoted in my appeal decision, which seeks to protect the residential amenity of occupants. Outlook from windows falls under this category. Furthermore, the Council has referred to Supplementary Planning

Guidance Note 6, *Development of Self Contained Flats* which specifically refers to outlook. The matter of outlook is a common and basic planning consideration and the Council must consider it.

6. The applicant also thinks that the Council should have considered imposing a planning condition requiring the roof-lights to be lowered. However, the position and design of windows are fundamental parts of a planning proposal. Therefore, it would have been inappropriate for the Council to impose such a condition, particularly as it is not clear whether such a condition could have addressed the Council's concerns.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the applicant's claim for costs fails.

Siobhan Watson

INSPECTOR