
Costs Decision

Site visit made on 21 August 2017

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 4th September 2017

Costs application in relation to Appeal Ref: APP/D0515/W/17/3176139 17 Leverington Road, Wisbech PE13 1PH

- 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 Alan Samuels for a full award of costs against Fenland District Council.
 - The appeal was against the refusal of planning permission for change of use, dwelling to 9 bedroom HMO.
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Decision

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

Preliminary Matter

2. In the interests of clarity, 'HMO' is a House of Multiple Occupation.

Reasons

3. Planning Practice Guidance (PPG) sets out that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. It goes on to explain that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to the substance of the matter under appeal; for instance by unreasonably refusing planning permission or defending appeals.
4. Examples of this include a failure to produce evidence to substantiate each reason for refusal and making vague, generalised or inaccurate assertions about a proposal's impact, unsupported by any objective analysis. The appellant argues that the Council's reasons for refusal fall into this category.
5. Prior to the Council's Planning Committee meeting, Members took the opportunity to visit the site and therefore had the benefit of viewing the potential accommodation at first hand. They were also able to view the surroundings.
6. There is nothing to compel them to take the same view as the Council's professional officers or any consultees. The Committee Minutes set out the discussions that took place and provide a clear indication that Members exercised their own planning judgement in reaching a different conclusion to that of their officers. In respect of the second reason for refusal, the assessment of the effects on character and appearance is by its nature, somewhat subjective. There is nothing to suggest that Members did not take

officers' views or those of the appellant into account when coming to their decision. Furthermore, in my view, the Council's position has been substantiated at appeal stage.

7. Taking all of this into account, the appellant has not incurred unnecessary or wasted expense in defending the appeal. Accordingly, I do not find that unreasonable behaviour has been demonstrated and the costs application does not therefore succeed.

Hayden Baugh-Jones

Inspector