The Planning Inspectorate

Costs Decision

Site visit made on 19th March 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 08 May 2019

Costs application in relation to Appeal Ref: APP/H1840/W/18/3219129
44 Corbett Avenue, Droitwich Spa WR9 7BE

- 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 and Mrs Nagra for a full award of costs against Wychavon District Council.
- The appeal was against the refusal to grant planning permission for a change of use from residential dwelling (C3) to Nursing Home.

Decision

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

Reasons

2. Paragraph 30 of the Planning Practice Guidance (the Guidance) advises 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.

3. Paragraph 49 of the Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague generalised or inaccurate assertions about a proposals impact which are unsupported by any objective analysis.

4. The applicant alleges unreasonable behaviour on a number of grounds. Firstly, that the Council's refusal is based on third party concerns and perceptions despite the Environmental Health Officer and the Planning Officer dealing with the previous planning application referring to no harm.

5. The Council's appeal statement ably sets out what the Council's concerns are with the scheme that relates to this appeal. Hence, the Council's stance is not made without evidence. Nor am I persuaded that matters relating to the previous planning application have particular merit, as it is a separate planning application and its refusal is not the subject of the appeal before me.

6. Secondly, the applicant is critical of the Council in not accepting the mitigation measures put forward which I understand to be the noise barrier in the party wall. However, there is insufficient information to be able to properly assess whether such a barrier would be effective, including the lack of a technical noise assessment.

7. The applicant also considers that the Council acted unreasonably in not giving due consideration to the fallback position of an HMO use or C3b use. The Council's Appeal Statement does not consider the fallback position. However, it clearly identifies a number of characteristics of the proposal that, as a care home, would in practice differentiate it from an HMO or C3b use in noise and disturbance terms. In any event, I have considered that the fallback position does not justify the proposal.

8. I therefore do not find that unreasonable behaviour as described in the Planning Practice Guidance has been demonstrated. An award of costs is therefore not justified.

E Griffin

INSPECTOR