



Costs Decision

Site visit made on 24 June 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 02 August 2019

Costs application in relation to Appeal Ref: APP/T3725/W/19/3224012 Unit 1, Moss Street, Leamington Spa CV31 2DA

- 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 David Dickinson of Sureway Property Services Group for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of planning permission for '32 bed HMO (in association with 15 bed HMO previously approved under reference W/15/0994 dated 10 August 2015) following demolition of existing commercial buildings on land at the rear of 1-3 Althorpe Street at Unit 1, Moss Street, Leamington Spa, Warwickshire CV31 2DA, in accordance with the terms of the application, Ref W/15/2154, dated 23 December 2015, subject to the Schedule of conditions attached to this decision' without complying with a condition attached to planning permission Ref W/15/2154, dated 30 December 2016.
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Decision

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

Preliminary Matter

2. The costs application submitted by the appellant states that the appellant is seeking a "full/partial award of costs". The appellant does not expressly state whether a full or partial award of costs is sought. However, by reason of the information contained within the costs application, I have interpreted the application as being as an application for a full award of costs, and I shall consider it on that basis.

Reasons

3. Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Parties in planning appeals and other planning proceedings normally meet their own expenses.
4. The PPG includes examples of unreasonable behaviour, by planning authorities. Amongst other things, this can 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", "vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis" and "persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable".

5. On the first of these issues and in relation to whether the Council prevented or delayed development that should clearly be permitted, it will be seen from my decision that I have found that the removal of the disputed would result in harm contrary to the provisions of the development plan. Consequently, I do not consider that the Council have acted unreasonably in this respect.
6. On the second of these issues and in relation to whether the Council provided only vague, generalised or inaccurate assertions, the reason for the refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the Warwick District Local Plan that the proposal would be in conflict. This reason has been adequately substantiated by the Council in its Officer Report. The Officer Report demonstrates how the proposal would result in harm to safety, using the evidence submitted by: the appellant; the Council's observations; those of statutory consultees; and third parties.
7. For the reasons set out in the appeal decision I too have concerns regarding the impact of parking on highway safety and in respect of the living conditions of nearby residents. I came to that decision on the basis of my consideration of the details and merits of the proposed removal of the occupancy condition, having regard to all the evidence and representations submitted.
8. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.
9. On the third of the issues raised by the applicant, it will be seen from my conclusions on the main issues that the proposed removal of the condition would be likely to increase the pressure on parking spaces within the surrounding area due to the likelihood that car ownership amongst private residents who were not students, would be higher than that of students. This would be consistent with the conclusions of the Inspector in the previous appeal decision.
10. It is apparent from the Inspector's decision in the previous appeal, that that appeal was allowed on the basis that the building would be occupied by students. It therefore does not necessarily follow that the said Inspector indicated that a proposal where occupancy of the building was not restricted to students would be acceptable. Consequently, I do not consider that the Council have acted unreasonably in this respect.
11. For the reasons above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

A Spencer-Peet

INSPECTOR