



Costs Decision

Site visit made on 1 October 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 1st November 2019

Costs application in relation to Appeal Ref: APP/Z2315/W/19/3233179 1 The Paddock, Highfield Avenue, Burnley BB10 2PS

- 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 John Baron of AJP Chartered Surveyors for a full award of costs against Burnley Borough Council.
 - The appeal was against the refusal of planning permission for change of use of former care home to student accommodation (20 bed spaces with communal living areas).
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In this case, the application is seeking to recover the full costs incurred in the appeal process on grounds that the Council behaved unreasonably in a number of ways including in respect of pre-application advice, by failing to engage with the appellant during the time that the application was being considered, refusing the application beyond the target date without agreeing an extension, and by failing to substantiate the reasons for refusal in its evidence to the appeal.
4. I appreciate the applicant's frustration in relation to the time it took for the application to be determined and that the decision will have been a disappointment. However, the application the subject of the appeal is substantially the same as the previous scheme that was refused and dismissed on appeal and the applicant would therefore have been aware of the concerns of the Council. Moreover, in respect of pre-application discussions, the PPG is clear that any such advice is not binding and it cannot pre-empt the democratic decision-making process in the event that a planning application is made.
5. The Officer's report set out the reasons why the scheme was unacceptable, taking into account the development plan and the previous appeal decision. It also addressed in some detail why it did not consider that the concerns raised by the highway authority could be addressed by means of a legal agreement. It therefore acted reasonably in determining the application and it can be seen from my appeal decision, that I reached the same conclusion. It therefore

follows that the refusal of the application did not prevent or delay development which should clearly be permitted.

6. The Council supported its reason for refusing the scheme by providing a statement at the appeal stage. I am therefore satisfied that the Council did substantiate its reasons for refusal and it did not behave unreasonably in the appeal process.
7. The applicant exercised a right of appeal but planning permission was not unjustifiably withheld given the harm that I have found. Therefore, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.
8. An award of costs is therefore not justified and the application for an award of costs is refused.

Sarah Manchester

INSPECTOR