



Costs Decision

Site visit made on 2 October 2019

by S Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2020

Costs application in relation to Appeal Ref: APP/W0340/W/19/3229421 21 Woodside, Newbury, Berkshire RG14 6HL

- 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 Russell Hanson for a full award of costs against West Berkshire Council.
 - The appeal was against the refusal of planning permission originally described as “we have a 6 bedroom HMO which would like to apply for a change of use to a 7 bedroom HMO. No building work is needed to do this we already have the bedroom which is unused”.
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Decision

1. The application for an award of costs is allowed, in the terms set out below.

Reasons

2. Paragraph 028 of the Planning Practice Guidance (PPG) states the established premise that parties to an appeal normally meet their own costs. However, the PPG in paragraph 030 advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and thereby has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour in this context may be procedural, relating to the appeal process, or substantive, relating to issues arising from the merits of the appeal.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it prevents development, which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations, or makes vague, generalised or inaccurate assertions about a proposal’s impact which are unsupported by any objective analysis.
5. The basis of the applicant’s claim arises from the delay in issuing the correct decision and that the Council acted unreasonably in so far that it rigidly applied the standards set out in its adopted parking standards in Policy 1 of the Housing Sites Allocations Development Plan Document (2017), referring to one-bedroom flats rather than for HMOs, for which there are no standards. The applicant considers that the Council also failed to provide any substantive evidence to support its view that the proposal would have an adverse impact on highway safety by means of the cumulative impact of parking.

6. Councils are required to behave reasonably in relation to procedural matters. The delay in issuing the decision notice, which according to the Council's response was a technical administration error, is unfortunate, but it is not considered excessive and does not in itself amount to unreasonable behaviour.
7. With regard to the Council's adopted parking standards, the consultation response from the Highway Authority (HA) required the provision of 'approximately' 11 car parking spaces to support the proposed use. The assessment was based upon parking standards for one-bed flats in the absence of parking standards for HMOs.
8. The policy acknowledges that where parking standards may not accord with the proposal, cases will be assessed on an individual basis. In this case, the parking requirements for the proposal were not assessed on an individual basis. Consequently, the requirement for the number of on-site parking spaces to comply with the adopted parking standards, where there were none for HMOs, was unreasonable.
9. No specific evidence or objective analysis was presented to demonstrate that there was not capacity for vehicles to park on the road. Neither was it demonstrated that the additional vehicles parking on the roadside would cause significant harm to highway safety. From the evidence before me, it was clear that the surrounding neighbourhood provides unrestricted areas to park which would not compromise highway safety.
10. The applicant is seeking costs in relation to the preparation and submission of the appeal together with the lost income from the additional room during the appeals process. Paragraph 032 of the PPG is clear that awards cannot extend to compensation for indirect losses, such as those which may result from the alleged delay in obtaining planning permission. As such the lost income would be ineligible.
11. Although the delay in issuing a correct decision notice was not unreasonable, I do consider that the Council failed to properly evaluate the planning application. Significant weight was given to the Highway Authority response, which was based on parking standards that did not relate to the proposal and not an individual assessment of the proposal. Furthermore, the concerns of the Council about the impact of the proposed development, which justified its decision, have not been clearly demonstrated.
12. Accordingly, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that the costs application should succeed and a full award of costs is justified.

Costs Order

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that West Berkshire Council shall pay to Russell Hanson, the costs of the appeal proceedings, described in the heading of this decision.

14. The appellant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. Such costs to be assessed in the Senior Courts Costs Office if not agreed.

S Hanson

INSPECTOR