
Costs Decisions

Site visit made on 12 February 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th April 2020

Application A: Costs application in relation to Appeal Ref:

APP/N4720/W/19/3241341

Tetley Hall, Burton Crescent, Headingley, Leeds LS6 4DN

- 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 Leeds City Council for a full award of costs against Mr Miles Pickard, Pickard Properties Limited.
 - The appeal was against the refusal of planning permission for the redevelopment of former halls of residence site comprising 4 storey residential care home, 3 blocks of 54 flats, 2 blocks of 14 townhouses, conversion of stables to detached house, with landscaping and public open space without complying with a condition attached to planning permission Ref: 11/03234/FU, dated 2 August 2012.
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Application B: Costs application in relation to Appeal Ref:

APP/N4720/W/19/3241342

Tetley Hall, Burton Crescent, Headingley, Leeds LS6 4DN

- 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 Leeds City Council for a full award of costs against Mr Miles Pickard, Pickard Properties Limited.
 - The appeal was against the refusal of planning permission for the demolition of Tetley Hall building and Heathfield Cottage (11-13 Heathfield Terrace) and construction of 17 apartments (block K).
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Decisions

1. Application A for an award of costs is refused and Application B for an award of costs is refused.

Procedural Matters

2. The applicant's (the Council) case for the costs claim covers matters relating to Application A and Application B together. Hence, I have dealt with these in the same way.
3. The appellant has also submitted costs claims which concern both these applications. For the purposes of clarity, these are the subject of separate decisions.

Reasons

4. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party

applying for costs to incur unnecessary or wasted expense in the appeal process.

5. The applicant considers that the appeal related to Application A had no realistic prospect of succeeding following the *Finney* judgment¹ and should have been withdrawn at that point, saving the applicant abortive costs. Whilst I agree that *Finney* causes this appeal to fail, it is not unreasonable for the appellant to put forward an alternative view, in particular as the judgment was made after the appeal was submitted and that a considered view needs to be taken as regards its full ramifications. The appellant's position is also not without evidence in this regard.
6. The development plan conflicts that the applicant has referred to concern the single draft Section 106 Agreement that was submitted with the appeal. Subsequently, the appellant submitted separate agreements as deeds of undertaking for each appeal. Moreover, the applicant has shown reluctance to engage with the appellant over agreeing completed Section 106 Agreements because of its objections. In such circumstances, the appellant has not acted unreasonably.
7. In relation to the alleged lack of a mechanism for the delivery of car parking spaces outside of the red line boundary, based on the evidence before me, this would still be on land the appellant has control over in developing the larger overall site. In addition, the shortfall of parking spaces needs to be considered in the context of the local circumstances which include the highly accessible location of the site to the local services. Hence, the appellant has not acted unreasonably as regards the car parking provision.
8. Concerning the submission of late representations, both main parties have put forward unsolicited correspondence in a manner that does not accord with the timetable for submissions that are set out in the appeal regulations and the associated procedural guidance. Accordingly, it would not be reasonable to solely penalise the appellant on these grounds. Nor is the costs regime so broad as to allow for consideration of matters arising from the application that has been made to the Council for a Non-Material Amendment under Section 96A of the Town and Country Planning Act 1990.

Conclusion

9. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in relation to Application A or Application B. An award of costs is not, therefore, justified.

Darren Hendley

INSPECTOR

¹ John Leslie Finney v Welsh Ministers, Carmarthenshire County Council, Energiekontor (UK) Limited [2019] EWCA Civ 1868