
Costs Decision

Site visit made on 30 June 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2020

Costs application in relation to Appeal Ref: APP/V2825/W/20/3246371 49 Lutterworth Road, Northampton NN1 5JR

- 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 V Singh for a full award of costs against Northampton Borough Council.
 - The appeal was against the refusal of planning permission for change of use from dwellinghouse (Use Class C3) to House in Multiple Occupation (Use Class C4) for 5 occupants.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party where it has behaved unreasonably and this has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant's costs application is based on concerns that the Council has failed to demonstrate consistency in decision-making and has therefore behaved unreasonably and caused extra unwarranted expense.
4. The Planning Committee Minutes for the meeting on 3 September 2019 shows, at Item G 52 Lutterworth Road for change of use from dwellinghouse (Use Class C3) to House in Multiple Occupation (Use Class C4) for 6 occupants including single storey rear extension, that it was resolved to approve the application subject to conditions.
5. Subsequently, at Item I 49 Lutterworth Road for change of use from dwellinghouse (Use Class C3) to House in Multiple Occupation (Use Class C4) for 5 occupants, it was resolved to refuse planning permission on highway safety grounds.
6. The Council states that whilst it is acknowledged that planning permission was granted for No 52 Lutterworth Road in the same planning committee, all planning applications are dealt with on their own merits. The proposal for No 52 was on the agenda before No 49 and therefore it was considered first by Members during the committee meeting. In considering the application for the appeal site following this, Members were of the opinion that one additional House in Multiple Occupation (HMO) in the same street would cumulatively result in unacceptable parking issues in the street and wider area.

7. The evidence before me shows that the proposals at Nos 49 and 52 were both for change of use from a dwellinghouse to HMO, with the proposal at No 49 being for 1 fewer occupant than No 52. The applications were therefore similar cases at properties that are practically opposite each other in the same street.
8. Whilst each case should be judged on its own merits, consistency in decision-making is important for securing public confidence in the operation of the planning system. The PPG identifies that not determining similar cases in a consistent manner is one of the examples of unreasonable behaviour which may result in an award of costs against a local planning authority. The Council has not provided clear evidence to justify the refusal of the planning application at No 49 and so it did not determine the case in a consistent manner, which amounts to unreasonable behaviour. This has caused the applicant unnecessary expense in the appeal process.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that this would warrant a full award of costs.

Costs Order

10. 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 Northampton Borough Council shall pay to Mr V Singh the costs of the appeal proceedings described in the heading of this decision.
11. The applicant is now invited to submit to Northampton Borough 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

C Osgathorp

INSPECTOR