



Costs Decision

Site visit made on 13 July 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2020

Costs application in relation to Appeal Ref: APP/N4720/W/20/3252049 8 Ecclesburn Street, Leeds LS9 9DB

- 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 P Child of Lettings Complete for a full award of costs against Leeds City Council.
 - The appeal was against the refusal of planning permission for change of use of dwelling (class use C3) to form house of multiple occupation (class use C4); cycle store to rear.
-

Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. With regards to outdoor amenity provision, the proposal would lead to a reduction in the space available in the rear yard and would change the nature of occupation of the dwelling. Even allowing for the proximity of public open space, the provision of amenity space within the site is a valid consideration. Whilst I have disagreed with the Council's conclusions in respect of outdoor amenity space, I do not consider that the Council's concerns on this matter were so without foundation as to represent unreasonable behaviour.
4. However, the Council's reasons for refusal are also based on matters including the effect of the internal layout of the proposal on the living conditions of future residents as well as noise and disturbance, despite evidence in the Officer's report that the proposal was acceptable on these matters. While planning committee members are not bound by the recommendations made to them by officers of the Council, where clear evidence has been presented to members any departure from officer's advice should be robustly justified. In submitting its appeal case the Council has provided no substantive evidence to override the evidence presented to members as part of the consideration of the application. I consider that the Council's reasons for refusal on these matters are unacceptably vague and based on generalised assertions without substantive supporting evidence or analysis.
5. To the extent that I have concluded that the Council's decision in respect of amenity space was not unreasonable, this has not led to the prevention or

delay of a development which should clearly be permitted. However, I find that the Council's decision was unreasonable with regards to the other identified issues regarding the living conditions of future residents and nearby residents. I am mindful that the appellant has appointed a consultant to address these issues and he has therefore been put to extra expense through the appeal process.

6. I therefore conclude that a partial award of costs, to cover the expense incurred by the appellant in contesting the Council's reasons for refusal other than in respect of outdoor amenity provision, is justified.

Costs Order

7. 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 Leeds City Council shall pay to Mr P Child of Lettings Complete the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the Council's reasons for refusal other than in respect of outdoor amenity provision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant 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.

David Cross

INSPECTOR