



Costs Decision

Site visit made on 24 August 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2020

Costs application in relation to Appeal Ref: APP/Z4310/W/20/3247087 80 Needham Road, Liverpool L7 0EQ

- 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 Ronaldo Garcia (Ron Sullivans Ltd) for a full award of costs against Liverpool City Council.
 - The appeal was against the refusal of planning permission for alterations and upgrade of existing 4 bedroom HMO, including loft conversion to accommodate 7no. bedrooms.
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Decision

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

Reasons

2. The application for an award of costs, the Council's response and the applicant's further response were submitted in writing and the content will be familiar to both parties. Consequently, I shall not repeat those submissions in full within this decision. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour or no wasted expense an award will not be justified.
3. The applicant seeks a full award of costs on the basis that they have incurred professional fees in having to appeal the decision. The delayed decision has also disrupted their timescales and caused financial loss because they have not been able to start work which has resulted in the loss of income that would have been generated from the rental of the seven bedrooms. In addition, there have been additional costs in refurbishing the property due to further deterioration of the building's condition.
4. The applicant contends that the Council acted unreasonably as they did not have constructive discussions with their agent. They consider that the Council was unable to provide substantial evidence or demonstrate that the dormer would be overbearing. They also state that the second reason for refusal was unreasonable as only the side elevation of the dormer would be visible on Wrenbury Street, which is similar to other dormers in the area. The applicant also considers that the length of time it took the Council to determine the application was unreasonable.

5. The Council claims that they have not behaved unreasonably in refusing planning permission. They also emphasise that there have not been any procedural errors or issues relating to the Council's handling and consideration of the application.
6. The Council received around 52 objections to the planning application, and emails were exchanged between the main parties in which the Council set out their concerns. Given the large number of objections from local residents and local ward Councillors, the Council took longer in assessing the application which they consider not to be unreasonable. The Council also informed the applicant that a smaller development would not require planning consent, and therefore they could have continued with the business without the loss of income. The Council consider that their reasoning for refusing the application is explained within the delegated report and that its decision was reasonable and well founded.
7. In response to the Council's costs statement the applicant emphasises that there was no proper dialogue until nearly three weeks after the application should have been decided and nearly eight weeks following the end of the consultation date. Their response re-emphasises the original reasons for the award of costs.
8. It is clear that the Council and local residents had genuine concerns relating to the proposal. The application required an exercise of planning judgement and the associated appeal decision found favour with the Council's case. Although a timelier decision, and earlier dialogue, would have been advantageous to the applicant, there is no evidence to suggest that this would have resulted in a different outcome. In relation to the issue of overbearing impact and the effect upon the surrounding area, the Officer's Report was clear and sufficient evidence was submitted to support the Council's policy stance. The reasons for refusal were not unreasonable.
9. The applicant would have been able to rent the existing bedrooms and therefore the appeal in itself would not have resulted in a loss of income. The applicant has not set out what additional refurbishing costs have been involved but it is likely that these improvements were required prior to the planning application being submitted, which was under a year ago.
10. The applicant has not shown that the Council's refusal of planning permission was unreasonable. In the absence of any unreasonable behaviour there are no grounds for an award of costs and a full or partial award is unjustified.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report, for all the above reasons, I concur that this application should be refused.

Chris Preston

INSPECTOR