
Costs Decision

Site visit made on 17 November 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2021

Costs application in relation to Appeal Ref: APP/Q3630/W/20/3253656 1 Mount Lee Lodge, 27 Egham Hill, Egham TW20 0EU

- 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 David McCarthy for a full award of costs against Runnymede Borough Council.
 - The appeal was against the grant subject to conditions of planning permission for subdivision of flat 1 as approved under RU.16/0354 to create 1 x 3 bedroom flat at first floor and 1 x 2 bedroom flat at second floor (amended description).
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. The PPG makes it clear that unreasonable behaviour in the context of an application for an award of costs may be either procedural, in relation to the process; or substantive, in relation to issues arising from the merits of the appeal. Costs may include, for example, the time spent by appellants and their representatives, or by local authority staff, in preparing for an appeal and attending the appeal event, including the use of consultants to provide detailed technical advice, and expert and other witnesses. Costs that are unrelated to the appeal or other proceedings are ineligible. Awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.
4. The application for costs relates to a claim by the appellant that the Council acted unreasonably in attaching a planning condition restricting the occupancy of the flat to no more than two persons and to be only let to students or staff of the Royal Holloway University (RHUL).
5. The Council were required to determine the application on the basis of the information before them at the time the application was considered, which included a confirmation from the appellant that the intention was that the flats would be let to students. On this basis, the Council therefore applied the restrictive condition.

6. Whilst circumstances have changed since the determination of the application, in particular the impact of the Covid 19 pandemic on the demand for student accommodation, considering the information that was before the Council when the application was determined, I do not consider that they acted unreasonably in attaching the planning condition.
7. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Adrian Hunter

INSPECTOR