



Costs Decision

Site visit made on 23 March 2021

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2021.

Costs application in relation to Appeal Ref: APP/M3835/W/20/3261270 36 Valencia Road, Heene, Worthing, BN11 4QD

- 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 Karl Edwards and Mr Ian Boyd (Conway and Edwards Property Co Ltd) for a full award of costs against Worthing Borough Council.
 - The appeal was against the refusal of planning permission for change of use of 6 no. bedroom dwellinghouse (Use Class C3) to 9 no. bedroom house of multi occupation (HMO- Sui Generis) including rear bike storage to east and 1 no additional bin store to the west.
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Decision

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

Reasons

2. Planning Practice Guidance (Guidance) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The Appellant's application for costs raises substantive points. The Guidance states that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate their reasons for refusal.
4. The Appellant contends that the local planning authority did not exercise their duty to consider the application in a reasonable manner and that their decision was not based on clear planning grounds supported by evidence. The local planning authority thus prevented development which should have been permitted resulting in the Appellant incurring the unnecessary or wasted expense of an appeal.
5. Whilst I have found the appeal proposal to be acceptable, that finding was based on the evidence presented by the local planning authority, the policies of the development plan and National Planning Policy Framework, and my own observations on site. It was also based on the judgements I applied to the evidence before me, all of which led to my overall finding that I was satisfied that the proposal would secure a good standard of accommodation for a 9 bedroom HMO.
6. The Appellant has referred to the fact that Planning Committee refused the appealed application contrary to the recommendation of its Planning Officers,

- whose Report to Committee set out a justification for granting planning permission. The Planning Committee and local planning authority are not bound to accept the advice or recommendation given by its Planning Officers. Similarly, it is not uncommon for Planning Committee's to disagree with the advice of its Officers or in applying their own judgement, to reach a different view, to that of their Officers, on the planning merits of a proposal. There can, therefore, be no guarantee that a positive recommendation from Officers will lead to an application being approved.
7. Moreover, there is no firm evidence before me to suggest that Planning Committee were not aware of their obligations, to weigh up all the relevant issues and submissions, in reaching a balanced decision. Indeed, the Minutes of the meeting confirm that Officers advised the Committee that the main issue was whether they felt there were sufficient grounds to refuse the application for the provision of 3 additional bedrooms. The Committee were also reminded that they would need clear grounds to refuse the application.
 8. Although Planning Officers, in their Committee Report, found that the proposal *"provides a good standard of accommodation with adequate shared facilities"*, Committee disagreed and found that the accommodation was not of the *"high quality"* that Policy 8 of the Worthing Core Strategy (WCS) sought to secure. In reaching that finding, Committee would have had regard to all the evidence before them including the submitted plans and photographs, and would have applied their own judgements to this evidence, which was entirely reasonable for them to do.
 9. The Appellant contends that the reason for refusal was vague, unsubstantiated and without any policy support.
 10. From the reason for refusal and the Council's Appeal Statement, I fully understood the Council's case and recognised that their objection related to the suitability of the appeal property to accommodate the proposed number of bedrooms. This objection was, in my view, both reasonable and legitimate. It was apparent that the proposal would lead to a level of occupation much higher than that of single family dwellings in the area. Also, that both local and national policies required an assessment of the standard of accommodation proposed and the impact of the development on the living conditions of existing and future occupiers.
 11. The Council's objection was also, in my view, substantiated by reference to what they alleged was the limited and poor quality of the accommodation, both internally and externally, resulting in, as the Council argued, an unsatisfactory living environment for future occupants and an overdevelopment of the appeal site.
 12. In relation to policy, in exercising their duty under section 38(6) of the Planning and Compulsory Purchase Act 2004, the Council argued that the proposal would be contrary to Policy 8 of the WCS, in that it would not secure *"high quality"* housing. I found the proposed development to be consistent with the aims and objectives of that policy. The Appellant's Appeal Statement also concluded that the appeal proposal accorded with Policy 8. In doing so, the Appellant accepted, in my view, that this policy was relevant to the determination of the appeal proposal and should be given weight in reaching a decision.

13. In terms of the benefits of the proposed development, Committee were made aware of these both within the Officers Report and in the oral presentation by Officers at the meeting (see Committee Minutes). These benefits were again recognised by the Council in their Appeal Statement. Even so, the Council concluded that these benefits did not outweigh the poor quality of the proposed accommodation and conflict with Policy 8 of the WCS.
14. I am satisfied, therefore, that the Council's reason for refusal was not vague, that evidence was produced to substantiate their objection and that the Council properly sought to support their case by reference to relevant development plan policy.
15. For the above reasons, I cannot, therefore, agree that the Council has acted unreasonably in this case.

Conclusions

16. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. An award of costs is therefore not justified.

G Roberts

INSPECTOR