The Planning Inspectorate

Costs Decision

Site visit made on 25 May 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4th June 2021

Costs application in relation to Appeal Ref: APP/W4325/W/21/3267453
86 Seaview Road, Liscard, Wallasey CH45 4LB

- 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 Frank Brennan for a full award of costs against Wirral Metropolitan Borough Council.
- The appeal was against the refusal of planning permission for a change of use from vacant hairdressing salon to one bedroom self contained flat including external alterations.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The basis for the application is that the Council determined the planning application without proper consideration of all relevant factors and did not act in a positive and proactive manner by failing to engage with the applicant during the application process about the need for additional justification for the proposed development which may then have avoided the appeal.

4. I sympathise with the applicant's frustrations about the time taken for the Council to raise the requirement for additional justification for the proposed development, and not being given an opportunity to address this during the consideration of the planning application. However, the Council does have a responsibility to determine applications in a timely manner. It appears that the Council provided advice to the applicant on their options for progressing with the proposed development, although I acknowledge that this did only give the applicant a short period of time to respond before the decision notice was issued. Whilst the applicant was within their rights to appeal, it was not the only option available.

5. The Council's position is that the proposed development is contrary to the development plan, specifically Policy SH3 of the Wirral Unitary Development Plan (including Minerals and Waste Policies) 2000 (the UDP). This is because it has the potential to harm the vitality and viability of Liscard Key Town centre and insufficient information was submitted to justify the loss of the retail unit.

6. A number of factors were identified by the applicant in their appeal statement of case as relevant considerations that were not taken into account by the Council. This includes the approach taken on other applications for similar changes of use. The Council's Officer Report does explain why it was considered that proposals considered under the prior approval process were not comparable. The Officer Report identified the National Planning Policy Framework (the Framework) as a material consideration. The applicant has made reference to a study which they state was commissioned by the Council and that no regard was given to this when considering the application. The Council's concern with the proposed development is that justification was not provided with the application for the loss of the retail unit. Given this concern, and the uncertain status of this study, as set out in my decision on the appeal, I do not consider that the Council acted unreasonably by not identifying the study as a material consideration. As is apparent from my decision on the appeal, I consider the Council did have sound reason for refusing the application, which was based on a conflict with the development plan.

7. Whilst I understand the applicant's dissatisfaction with the way in which the Council determined the application, I cannot agree that the Council has acted unreasonably in this case.

Conclusions

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