
Costs Decision

Site visit made on 9 June 2021

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2021

Costs application in relation to Appeal Ref: APP/M4320/W/20/3266042 Former Central Buildings, Church Road, CROSBY, L23 5RD

- 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 Penny Lane Builders Limited, Plus Dane Housing Limited, and Urban Generation (Crosby) Limited for a full award of costs against Sefton Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a 4-storey building containing 2 commercial units and 39 apartments with associated parking.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) 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 expense in the appeal process. In this case, the applicant contends that the Council has behaved unreasonably by failing to produce evidence to substantiate the reason for refusing the application, and by making only vague, generalised and unsupported assertions about the alleged harm. The application was refused by the Council's planning committee because of the lack of amenity space for the residential units, and the associated impact on the living conditions of future occupiers.
3. The requirement for amenity space, and the reasons for it, are set out in the Flats and Houses in Multiple Occupation Supplementary Planning Document 2018 (SPD). Although not part of the development plan, the SPD has been adopted by the Council and was a material consideration in considering this proposal.
4. Whilst interested parties may not have raised concerns over the lack of amenity space, planning officers evidently had, and the matter had been addressed in some detail during the application. In recommending approval of the scheme, officers came to the view that the benefits of the scheme were sufficient to outweigh any harm caused by the lack of amenity space. However, the planning committee were not obliged to follow the officer's recommendation, provided that any alternative decision was supported by evidence based on some substance.

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5. I agree that the Council could have provided a more detailed explanation to support of its reason for refusal, including why the information contained in the Private Amenity Space Statement was lacking or inadequate. Notwithstanding that, the Council made its decision on the basis of the guidance in the SPD, which clearly states that under no circumstances will the provision of no amenity space be accepted. In making this decision, the planning committee were aware of the benefits of the scheme, which are clearly set out in the officer's report.
 6. Although I came to a different view to the Council and allowed the appeal, the conflict with its own guidance in the SPD provided a clear basis for the Council's decision.
 7. I note the applicant's comments that a previous scheme on the same site was previously granted planning permission by the Council, and that this included residential development with no amenity space. However, that was a different and smaller scheme, with less residential units. Other flatted schemes in Liverpool and elsewhere will have been assessed in accordance with local policies and guidance, and their acceptance elsewhere is not a reason for the Council to disregard the requirements of its own SPD.
 8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, an award of costs is not justified and the application for costs is refused.

R Morgan

INSPECTOR