



Costs Decision

Site visit made on 20 July 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 17th August 2021

Costs application in relation to Appeal Ref: APP/A2335/W/21/3272425 110 Quarry Road/ 36 Dumbarton Road, Lancaster, Lancashire LA1 1TR

- 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 Quarry Rd Ltd for a full award of costs against Lancaster City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for conversion of lower ground floor the creation of 4 self-contained studio flats (C3) for student accommodation, provision of entrance porch, bin and bike stores, and construction of external staircase and retaining wall.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and the unreasonable behaviour has caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant is seeking to recover lost rental income for the academic year 2020-21 and, in the event that the appeal is not determined at least 12 weeks before 1 October 2021, for the year 2021-22. This is on the grounds that if the application had been validated when it was made, and if it had then been approved within the prescribed time limits, the development would have been complete for the beginning of the academic year commencing in 2020.
4. The Council has explained that the application could not be validated on 8 April 2020, when it was made, because the plans did not meet the validation guidelines. This was communicated to the applicant in June 2020 and it was not until the start of September 2020 that a satisfactory set of plans was submitted. On this basis, if the Council had then favourably determined the application within the 8 week time period, the development could not have been completed and available by the start of the 2020 academic year.
5. The Council has not explained why it did not communicate with the applicant in a more timely manner following submission of the application, although it seems likely that the first national coronavirus lockdown would have disrupted normal Council working at that time. Irrespective, while the delay in validating

the application was regrettable, it has not been demonstrated that the Council behaved unreasonably in this regard.

6. In its evidence to the appeal, the Council indicated that, if it had been in a position to determine the application, it would have refused planning permission. As can be seen from my appeal decision, I also found that the proposal would result in conflict with the development plan and I dismissed the appeal accordingly. It therefore follows that the Council's actions did not delay development which should clearly have been permitted.
7. The applicant has not demonstrated that the delay in validating the application constituted unreasonable behaviour by the Council or that this has resulted in unnecessary or wasted expense in the appeal process. The PPG is in any case clear that the costs must be directly related to the appeal, such as time preparing for an appeal or the use of consultants to provide technical advice. The award of costs cannot extend to compensation for indirect losses, such as those resulting from alleged delay in obtaining planning permission.

Conclusion

8. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. For this reason, an award of costs is not justified.

Sarah Manchester

INSPECTOR