



Costs Decision

Site visit made on 14 July 2021

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2021.

Appeal Ref: APP/J2210/W/20/3258260

3-4 Gordon Road, Canterbury, Kent CT1 3PW

- 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 Cityscape Limited for a partial award of costs against Canterbury City Council.
 - The appeal was against the refusal of the Council to grant subject to conditions of planning permission for 12 no. student studio apartments following demolition of existing flats.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may 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 appellant seeks a partial award of costs in relation to the Council's first reason for refusal on the basis that they have failed to substantiate its reasoning, and to consider the appellant's statement of case which included Counsel's opinion on the matter of interpretation of policy HD7.
4. The Council's delegated report and Statement of Case for the appeal both set out the Council's approach to policy HD7, which differs from that of the appellant. As set out in my decision I have preferred the appellant's position. However, the policy wording is not clear and open to interpretation, and the Council's approach reflects an earlier appeal decision. As such, the Council had reasonable concerns regarding the development which justified its decision and I do not consider it to be unreasonable.
5. The Council has not directly referred to the legal advice provided by the appellant. Nevertheless, I have seen correspondence between the appellant's agent and the Council's Planning Manager (dated 25 November 2019, 2nd December 2019 and 11th December 2019) explaining the Council's approach to student accommodation on residential sites and acknowledging receipt of the legal advice. Thereby the information was available to the Council during the application process and their response to the appeal maintains the same position. Whilst the Council's response to the appeal is limited there is no requirement to respond to specific points made by the appellant.

6. Overall, I am satisfied that the Council has properly evaluated the application and considered the merits of the scheme, and therefore the appeal could not have been avoided. I have also found that they had reasonable concerns regarding the development which justified its decision.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

G Ellis

INSPECTOR