
Costs Decision

Site visit made on 18 May 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

Costs application in relation to Appeal Ref: APP/D1780/W/21/3267076 279 Northumberland Road, Southampton SO14 0EL

- 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 Southampton City Council for a partial award of costs against Mr I Bajar.
 - The appeal was against the refusal of the Council to grant planning permission for erection of a 4-storey building to contain 8 flats (6 x 1-bed and 2 x studio) with associated cycle/refuse storage, following demolition of existing building.
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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 one of the aims of the costs regime is to encourage all those involved in the appeal to behave in a reasonable way. It states that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance confirms that a party applying for costs may have costs awarded against them if they themselves have behaved unreasonably. It states that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. The applicant's view is that the appellant has acted unreasonably by requesting an award of costs against the Council, resulting in the applicant incurring unnecessary costs in association with the production of the costs response.
4. My decision in respect of the appellant's cost application against the applicant, which accompanies this decision, explains why I have found that the Council has not acted unreasonably in respect of the first reason for refusal.
5. However, whilst I have found no unreasonable behaviour leading to unnecessary or wasted expense, I find that the appellant was entitled to make the costs application, having regard to advice in the Guidance about what may constitute unreasonable behaviour by Councils, which includes the withdrawal of any reason for refusal and the introduction of a new reason for refusal, failing to provide evidence to substantiate each reason for refusal on appeal and refusing planning permission on a planning ground capable of being dealt with by conditions. I have also had regard to the comments of the Council's

Environmental Health Officer, which do not object to the proposal on the grounds of noise impacts on external amenity areas.

6. As such, having regard to the Guidance, whilst I have not allowed the appellant's costs claim against the Council, I find that the appellant did not act unreasonably in applying for costs, and that the Council was not put to unnecessary expense in defending the costs application.

Conclusion

7. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Leonard

INSPECTOR