



Costs Decision

Site visit made on 19 May 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2021

Costs application in relation to Appeal Ref: APP/N4720/W/21/3267996 Land Adjacent to Grove Park Care Home, Grove Lane, Leeds LS6 2BG

- 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 S Foster of Roseville (The Paddock) Limited for a full award of costs against Leeds City Council.
 - The appeal was against the refusal of planning permission for 58 no apartments for retirement/lifestyle living exclusively for residents of age 55+, associated communal spaces, access Grove Lane and new landscaping.
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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 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 Council has not responded to the appellants' costs application. However I consider that I have enough evidence on which to reach a conclusion on this application.
4. The appellants submit that the Council has behaved unreasonably in a number of respects.
5. In respect of reason for refusal 1, the appellant submits that the Council has refused permission on an erroneous assumption in respect of separation distances and the effect on privacy, and has failed to substantiate this. However, notwithstanding any advice on separation distances, there is a subjective element to the consideration of overlooking and privacy. This is particularly so in respect of the appeal proposal, which includes a building of a significant scale located in the vicinity of an existing residential property. Whilst I have concluded that the proposal would not lead to unacceptable harm in respect of the privacy of nearby residents, I do not consider that the council's consideration of this issue is so without foundation or substantiation as to represent unreasonable behaviour.
6. With regards to reason for refusal 2, the appellant considers that the Council failed to recognise that the site had been deleted as proposed Green Space on the adoption of the Site Allocations Plan 2019. However, the site is within an

Urban Green Corridor designated by the Unitary Development Plan Review 2006 (UDPR). Policy N8 of the UDPR emphasises the visual amenity function of Green Corridors, and I consider that the appellants contention that the site has no public amenity value is without merit.

7. The appellant also submits that the development plan does not protect specific viewpoints and that there is no 'right to a view'. However, the visual linkages between areas can be an important consideration of visual amenity, particularly when assessing the links between built-up areas and green infrastructure and the public benefits arising from that. Indeed, in my Appeal Decision I have concluded that the appeal proposal would lead to moderate harm on that issue, and I therefore cannot conclude that the Council has behaved unreasonably on this matter.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

David Cross

INSPECTOR