



Costs Decision

Site visit made on 10 May 2022

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 23rd May 2022

Costs application in relation to Appeal Ref: APP/A2335/D/21/3289874 12 River Street, Lancaster, LA1 1AD

- 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 Mrs Karen Gallacher for a full award of costs against Lancaster City Council.
 - The appeal was against the refusal of planning permission for conversion of garage to ancillary living accommodation.
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In reaching its decision, the Council referred to the earlier planning permission (ref 00/01263/FUL) for amendments to approved scheme at land rear of 35/36/37 St Georges Quay, specifically condition 10 which requires the garages and vehicle parking spaces indicated on the approved plans to be provided and retained for parking. While the applicant considers the condition is not enforceable or relevant because of inconsistencies in the approved plans, full details have not been provided. It has not been demonstrated that it fails the tests for conditions or that the Council behaved unreasonably in this regard.
4. The applicant considers the Council also behaved unreasonably by failing to take into account nearby parking. There is little before me in relation to the parking evidence provided to the Council, but I understand it was in the form of photographs of parking spaces and car parks with no information about their location or availability for residential use. I am not aware that the Council failed to take into account substantive evidence, such as a parking survey. The Council officer report does take into account the extremely limited on street parking in the vicinity of the appeal site.
5. The National Planning Policy Framework sets out that local planning authorities should work proactively to secure developments that will improve the economic, social and environmental conditions of the area. I acknowledge that the applicant would be willing to consider planning conditions. However, she does not appear to have suggested any acceptable form of condition wording and the Council considers that the harm could not be mitigated through the

imposition of conditions. As can be seen from my appeal decision, I agreed with the Council's position, and I dismissed the appeal. Therefore, the Council did not behave unreasonably by failing to grant permission subject to conditions.

6. It was not unreasonable of the Council to take account of the third party representations, which are capable of being a material consideration where they relate to relevant planning matters. I understand that there was a delay in removing defamatory representations from public view but, in the absence of further details of this matter, I cannot be certain that this was unreasonable or that it had a bearing on the appeal.
7. The applicant disagrees with the decision of the Council and she exercised her right of appeal to test the Council's decision. Nevertheless, the parties are expected to meet their own costs in the appeal process unless it is clearly demonstrated how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Moreover, the PPG is clear that an award of costs cannot extend to compensation for indirect losses such as those which may result from alleged delay in obtaining planning permission.

Conclusion

8. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in this case and therefore an award of costs is not justified.

Sarah Manchester

INSPECTOR