



Costs Decision

Site visit made on 5 April 2022

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2022

Costs application in relation to Appeal Ref: APP/P4605/W/21/3283206 5 Lime Avenue, Birmingham B29 7AJ

- 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 Babettas UK Ltd (Mr A Babettas) for a full award of costs against Birmingham City Council.
 - The appeal (2021/05895/PA) (appeal under Section 73) was in connection with Condition 3 imposed by planning permission 2020/09687/PA.
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Decision

1. The application is dismissed.

Procedural Matter

2. The appeal has been dismissed on a legal matter not raised by the parties and formed no part of the reason for refusal of application 2021/05895/PA, however I must deal with this application for costs based on the reasoning supplied by the applicant, and the subsequent rebuttal from the Council.

Reasons

3. Paragraph 030 of the Planning Practice Guidance (PPG) indicates 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.
4. Examples of unreasonable behaviour by Local Planning Authorities are set out in Paragraph 049 of the PPG.
5. The applicant states that the Council has behaved unreasonably in refusing this appeal against conditions, in that the condition should not have been imposed and does not meet the six tests, have ignored their own guidance, introduced additional information and have been inconsistent in their decision making.
6. The Council states that the condition is reasonable to protect the living conditions of the residents in terms of the size of the bedrooms and the communal space. The Council states that their reasoning is consistent, quoting another appeal heard previously which raised similar issues, and they have not attempted to raise additional matters. In conclusion the Council state that they have not been unreasonable and there has been no wasted expense from the applicant.
7. Irrespective of my findings in terms of the appeal, I am satisfied that the reason for refusal of the Council is clear, specific and relevant to the original application. They have clearly stated the policies of the Development Plan, and

the non-compliance of the proposal with those policies, and demonstrated good reasoning with regard to consideration of the proposal when the application was made.

8. Whilst I appreciate that the applicant does not agree with the outcome of the application, the Council were not unreasonable in coming to that decision and there is no evidence to suggest that they have unreasonably prevented or delayed the development.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, an award for costs is therefore not justified.

Paul Cooper

INSPECTOR