



Costs Decision

Site visit made on 24 May 2022

by G C Bayliss BA MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 July 2022

Costs application in relation to Appeal Ref: APP/W3005/W/22/3292280 2 Albert Street, Hucknall, NG15 7BE

- 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 Adrian Cracuin, Castle Rock Projects Ltd for a full award of costs against Ashfield District Council.
 - The appeal was against the refusal of planning permission for the change of use from 2 x C3 dwellings into 1 x sui-generis 10 bedroom HMO including erection of single storey extension to rear.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
3. The applicant submits that the Council has acted unreasonably in that it has gone against the advice of its professional officers without good reason and failed to substantiate its objections on the grounds of harm to residential character, residential amenity and highway safety. Further, that the Council failed to take into account a recent appeal decision at a premises nearby; a development which shared many similarities and should have been regarded as a material consideration and afforded very significant weight. The applicant considers that the proposal complied with the development plan and national policy and should have been permitted. They submit that the appeal has caused delay and unnecessary expense.
4. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
5. The first reason for refusal cites the loss of two family homes in a primary residential area. However, the officer's committee report previously found no

- such over-concentration of this use in the locality. The Council's appeal statement failed to mention or substantiate this matter or to explain why it would be a determinative matter on which the application should be refused.
6. The reason for refusal also alleges a significant impact on the amenities of neighbouring residents. However, the harm has not been substantiated other than by means of vague assertions. This includes claims that the separation distances between opposing principal elevations on Albert Street are inadequate, even though these would remain unaltered. There are also assumptions that occupants in the proposed building would spend more time in their bedrooms than a typical family household, occupants would generate more trips and receive more deliveries. Assumptions are also made that the proposal would result in increased noise between mid-terrace properties, which the planning officer had previously advised could be mitigated by attaching an appropriate condition. There is finally the allegation that the applicant would be unlikely to implement the fall-back position of two, six-bedroom units. However, I have seen no evidence as to why this could not realistically be pursued and indeed the applicant originally applied for twelve bed-spaces but reduced this on the advice of the Council.
 7. In relation to the second reason for refusal, the Highway Authority raised no objections to the proposed development. Furthermore, the planning officer considered that the existing two dwellings could generate a similar level of demand for parking, and the appeal scheme would have the additional benefit of off-street parking as well as bike storage. Account was also taken of the proximity of the premises in relation to town centre services and facilities, as well as public transport. Despite this, the Council refused the application on the basis of inadequate off-street parking, giving little evidence to support this reason for refusal. It did not clearly establish that there is an existing parking problem, and if so, how this would be made worse by the proposed scheme. Further unsubstantiated claims were made that potentially each occupant could have a vehicle and apply for a parking permit, and that the development would give rise to sporadic and opportunistic parking to the detriment of highway safety.
 8. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been permitted. Of particular relevance was the Titchfield appeal decision referred to by both parties which clearly and comprehensively dealt with many of the issues which were again under consideration but seemingly ignored by the Council in reaching its decision. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG and the applicant has been faced with the unnecessary expense of lodging the appeal.
 9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that an award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that

Ashfield District Council shall pay to Mr Adrian Cracuin, Castle Rock Projects Ltd, the costs of the appeal proceedings described in the heading of this decision.

11. The applicant is now invited to submit to Ashfield District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

G Bayliss

INSPECTOR