



Costs Decision

Site visit made on 5 July 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2022

Costs application in relation to Appeal Ref: APP/G4620/W/22/3294026 10-12 Park Hill, Wednesbury WS10 0PL

- 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 Balachandran Thiyagarajah for a full award of costs against Sandwell Metropolitan Borough Council.
 - The application Ref DC/21/66097, dated 7 September 2021, was refused by notice dated 10 December 2021.
 - The appeal was against a refusal to grant planning permission for the proposed development described as "conversion of (existing) residential accommodation to provide a self-contained ground floor flat alongside a 7-bed HMO."
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice 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. Unreasonable behaviour can relate to procedural matters (i.e. the appeal process) or substantive matters (i.e. issues related to the planning merits of the appeal).
4. The applicant alleges that the Council acted unreasonably during the planning application stage. The main parties submitted their cases in writing and therefore there is no need to repeat them in full.
5. Essentially the applicant is seeking a full award of costs due to the Council's alleged unreasonable behaviour. The appellant considers the reason for refusal to be unreasonable because the Planning Committee went against the advice of their officers and the reasons for the refusal were vague, generalised and not determined in a consistent manner. They also claim that the Council failed to produce evidence to substantiate each reason for refusal. The applicant feels this prevented or delayed development which should have been permitted.
6. In terms of the Planning Committee, as decision maker, they are not bound to accept the recommendations of their officers and can therefore overturn the officer's recommendation decision if they decide otherwise. The application was discussed at Planning Committee and Members would have been given the opportunity to read the Officer's report ahead of the meeting. Therefore, I find the Council to have acted reasonably in this instance.

7. In terms of the reason for refusal, the Planning Committee considered that the proposal would generate increased comings and goings that would lead to unacceptable noise and disturbance to residential neighbouring properties, which formed their first reason for refusal on the decision notice for planning application Ref: DC/21/66097. Whilst no objections were raised by the Council's Pollution Control Team with regard to noise and disturbance, objections had been received from local residents. Therefore, the Planning Committee exercised its duty to determine the planning application based on the evidence before them.
8. In terms of the second reason for refusal, I can see from the evidence submitted that the refusal on highway safety matters was similar to the reason for refusal given for the previous refused planning application ref: DC/19/63440. The Planning Committee were not persuaded by officers that the revised application had suitably addressed the concerns regarding parking. Therefore, the Planning Committee exercised their planning judgement as decision maker and were entitled to come to the conclusions they did based on the adopted development plan for the area and national planning policy. Therefore, I find the Council to have acted reasonably in this instance.
9. With regards to inconsistency, as the planning application attracted public attention, it was reasonable for the Council to determine the application by their Planning Committee instead of the delegated officer route. After considering the objections received from local residents, Member's own local knowledge of the area, and the observations they had made during a Member's site visit for the previous refused application, the Planning Committee decided to refuse the proposal. This was due to their concerns that the proposal would have a detrimental impact on the local area.
10. In the Council's decision notice and statement of case, the Council gave reasons as to why it was concerned that the proposal, by virtue of its proposed use would cause harm to living conditions from noise and disturbance from increased comings and goings, and harm to highway safety from insufficient off-street parking. The above matters involve a degree of judgement and whilst on balance I do not agree with the Council's decision, sufficiently robust evidence was submitted to show that it did not apply its judgement in an unreasonable manner, in accordance with the advice in the PPG.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified.

Helen Smith

INSPECTOR