
Costs Decision

Site visit made on 5 July 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2022

Costs application in relation to Appeal Ref: APP/A3010/W/22/3292415 17 George Street, Worksoy S80 1QJ

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by D. Dowbusz for a full award of costs against Bassetlaw District Council.
 - The appeal was against the refusal of planning permission for the change of use from dwelling (Class C3a) to a House in Multiple Occupation (sui generis) and erection of extensions.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby cause the party applying for costs to incur unnecessary expense in the appeal process.
3. The application relies on the fact Council Members refused the planning application with no objective evidence or justification, and that local community concerns are based on the perceived operation of the House in Multiple Occupation (HMO) and the perceived creation of problems in respect of on-street parking. The application also relies on the fact that Planning Officers recommended that planning permission be granted for the proposal, but that Council Members took a different course of action, without adequate reason to do so.
4. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. In respect of the second and third reasons of refusal, I have noted the recommendation of the Council's Officers. However, the decision in respect of these matters is one which is a matter of judgement. The Council Members in this case, were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view. These reasons for refusal, as set out in the decision notice, are complete, precise, specific and relevant to the application. They also clearly state the policies of the Bassetlaw Core Strategy and Development Management Policies DPD (CS) that the proposal would be in conflict. Whilst there is an error in the paragraph number of the National Planning Policy Framework (NPPF) in respect of the third reason for

- refusal, the correct paragraph number is included within the planning committee minutes which are publicly available. Furthermore, the appellant had to address the same concerns in respect of Policy DM4 of the CS in any event.
6. The first reason for refusal is rejected against paragraph 92 of the NPPF. This paragraph is split into three parts, and the reason for refusal does not make clear which part is applicable. The reason for refusal is therefore imprecise. Part (b) of paragraph 92 requires developments to be "safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion". There is nothing within paragraph 92 of the NPPF that refers to noise and disturbance, as detailed within the first reason for refusal. Furthermore, it is noted that noise and disturbance is repeated within the third reason for refusal.
 7. The planning committee minutes do not substantiate why Council Members considered the proposed development would lead to anti-social behaviour and an increase in the fear of crime, or why Council Members took an alternative view to their Planning Officers on this matter. In contrast, the minutes reference the Planning Development Manager stating, "there would need to be a large body of evidence of whether HMOs have an impact on anti-social behaviour and even then, the Planning Inspectorate would be unlikely to agree that it was a reason for refusal without evidence to substantiate the reason".
 8. The local planning authority's appeal statement introduced new evidence to defend the first reason for refusal in the form of the Department of Communities and Local Government "Evidence Gathering – Housing in Multiple Occupation and possible planning responses (2008)" document. I considered that the parts of that document that were referred to did not clearly relate to the area where the appeal site is located. This led the appellant to have to submit further comments to defend this new evidence.
 9. Whilst I have found that the Council has behaved unreasonably in respect of the first reason for refusal, given the other two reasons were reasonable and backed by sufficient evidence, an appeal would have occurred even without the element of the Council's case that relied unsuccessfully on new evidence. The applicant has not demonstrated that they have been put to significant wasted expense in respect of that matter, which was a limited part of the Council's case.

Conclusion

10. I therefore find that unreasonable behaviour by the local planning authority, resulting in unnecessary and wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

A Berry

INSPECTOR