



Costs Decision

Site visit made on 27 September 2022

by Elaine Moulton BA (Hons) BPI MRTPI

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

Decision date: 1st November 2022

Costs application in relation to Appeal Ref: APP/D0650/W/22/3300096 Cartref House Nursing Home, 61 Derby Lane, Widnes WA8 9LG

- 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 Crosshill Property Partners for a full award of costs against Halton Borough Council.
 - The appeal was against the refusal of planning permission for a change use from Care Home (C2) to 3 no. self contained Houses in Multiple Occupation (sui generis) with associated infill extension, lay out of car park and landscaping
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Decision

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

Preliminary Matter

2. In the interests of consistency, I have used the same description of development as that used on the appeal decision relating to this case, which is a modified version of the form of words¹ used on the application form.

Reasons

3. National Planning Practice Guidance (NPPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
4. Unreasonable behaviour can be either substantive in nature, relating to the issues arising from the merits of the case or procedural, relating to process.
5. The appellant contends that the Council has behaved unreasonably both on a substantive basis and procedurally. Essentially the appellant considers that the application was refused for nonrelevant issues, against clear advice to the contrary, and that this is unreasonable from a substantive point of view. Further, from a procedural point of view, the appellant contends that established committee procedures were not followed which was prejudicial to the outcome of the planning application.
6. Councillors were entitled not to accept the professional advice of officers on the merits of the proposal provided that a case could be made for the contrary view.

¹ Which is 'full planning permission to change use from Care Home (C2) to 3 no. self contained HMO's (sui generis) with associated infill extension, lay out of car park and landscaping.'

7. The planning application which is the subject of the appeal was considered by the Council's planning committee on two occasions. The planning committee deferred its decision at the first meeting to enable a site visit to be undertaken. As such, the committee will have seen the site, its relationship with 59 Derby Road and its wider context prior to the decision being reached.
8. The planning committee, in reaching its decision, also had the benefit of the representations made in writing and, at the first meeting, verbally by the appellant, a local resident and a ward councillor. In addition, whilst the Police's Designing Out Crime Officer did not consider that refusal of planning permission was justified, they did highlight historic issues of vehicle congestion in the area that could cause potential danger and inconvenience to local residents.
9. The judgement that was reached by the planning committee was therefore informed by local knowledge, the application documents, and representations. In addition, even though I have concluded that there were insufficient grounds to refuse planning permission, a substantive and reasonable case based on relevant planning considerations was put forward by the Council to justify its decision which it was entitled to take.
10. Turning to procedural matters, the Council have stated that at the second meeting of planning committee, when the decision was reached, the members were informed that representations made by all parties at the previous meeting still stood for consideration. In addition, the appellant was given, and took, the opportunity to provide a statement to be read out at the second meeting. There is no information that has been provided suggesting that those in opposition to the application, other than members of the planning committee, were allowed to speak at the second meeting. Taking such matters into consideration there is no reason for me to conclude that a different decision might have been reached had the appellant been allowed to speak at the second meeting when the decision was made on the application.
11. I appreciate that the appellant does not agree with the outcome of the application. However, there is no evidence to suggest that the Council have unreasonably prevented or delayed a development that should otherwise have been approved.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the NPPG, has not been demonstrated. I conclude that the Council has exercised their duty to determine the planning application in a reasonable manner and as such they are not liable for an award of costs.

Elaine Moulton

INSPECTOR