



Costs Decision

Site visit made on 17 November 2022

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2023

Costs application in relation to Appeal Ref: APP/Z4310/W/22/3303117 Telegraph Service Station, Scotland Road, Everton, Liverpool L5 5AQ

- 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 appeal is made by Mr A Patel for a full award of costs against Liverpool City Council.
 - The appeal was against the refusal of outline planning permission for the erection of a four storey building to provide 14 No. student studios (use class Sui Generis) with access, scale, and layout for approval (appearance and landscaping reserved for subsequent consideration).
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance 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. Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal, and vague, generalised, or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
3. The applicant contends that the appeal was unnecessary because the design issues raised by the Council went beyond the scope of the outline permission sought, which was only for access, layout, and scale. Appearance and landscaping are reserved for future consideration, thus, the applicant contends that these issues do not constitute valid grounds for refusal.
4. My Appeal Decision has addressed how appearance and layout are interlinked for this case, and I do not repeat this reasoning here. While I disagreed with the Council as to the extent of the necessary design amendments, this is a matter of degree and balance. Had I found the Council's suggested amendments necessary in order for the design to preserve the character of the area, then they would have significantly affected the layout. Similarly, provision of a lift is directly related to layout. I therefore find that it was not unreasonable for the Council to consider appearance to the extent it did, and to place a great emphasis on design and inclusive design at outline stage.
5. The applicant also contends that they incurred unnecessary costs because the proposed building is not one to be used by the public, and so the refusal relating to the lack of provision of a lift was a misapplication of the Liverpool Local Plan 2013-2033 (2022) policy UD4.

6. In my Appeal Decision I determined that the proposed building would not be a public building, but that a lift would be required, and so the proposal would conflict with policy UD4 and others. While I disagreed with aspects of the Council's position in this regard, including in terms of the second criteria of policy UD4, this is a matter of planning judgement. The applicant's costs incurred in attempting to refute this requirement overall were therefore not unnecessary.
7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process as described in the Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

L Hughes

INSPECTOR