
Costs Decision

Site visit made on 13 December 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2023

Costs application in relation to Appeal Ref: APP/M2840/W/22/3304578 57 & 59 College Street, Wellingborough, Northamptonshire NN8 3HF

- 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 Mr Tony Hardie of Jackson Design Associates Ltd for a full award of costs against North Northamptonshire Council.
 - The appeal was against the refusal of planning permission for the conversion of 2no existing terraced houses into 4no supported living apartments (C3A).
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 proposed development due to its previous use as shared supported living units. The application also relies on the fact that Planning Officers did not refuse a previous application for a similar development at the site on the grounds given by the Planning Committee and that the appellant had overcome the Council's only previous reason for refusal with the submission of additional evidence in respect of parking. Council Members also refused the planning application on noise and disturbance grounds although the Council's Environmental Protection Officer (Noise and Air Quality) raised no concerns regarding the proposal.
4. The PPG 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 first reason for refusal, I have noted the recommendation of the Council's Officers and the Environmental Protection Officer (Noise and Air Quality). However, the decision in respect of this matter is one which is a matter of judgement. The Council Members in this case, were entitled not to accept the professional advice of their officers so long as a case could be made for the contrary view. The planning committee minutes substantiate why Council Members considered the proposed development would lead to an

adverse effect on the living conditions of the occupiers of neighbouring properties, and why Council Members took an alternative view.

6. The reason for refusal, as set out in the decision notice is complete, precise, specific, and relevant to the application. It also clearly states the policies of the North Northamptonshire Joint Core Strategy 2011-2031, adopted 2016 and the paragraph of the National Planning Policy Framework that the proposal would be in conflict.
7. The planning committee minutes indicate that the potential inclusion of a condition to install thermal and acoustic upgrades to deal with issues surrounding noise was debated. However, this was rebutted by the Senior Development Management Officer due to it falling within the remit of Building Regulations. Notwithstanding this, such a condition would not overcome all of the issues raised by Members in respect of the proposed development.
8. Accordingly, I do not consider that Council Members failed to properly evaluate the application or consider the merits of the scheme, rather they arrived at a different conclusion than their officers, which is not a basis for unreasonable behaviour. I appreciate that the Planning Committee's decision will have been a disappointment to the applicant, particularly as they felt they had overcome the only reason for refusal on a previous decision for a similar development at the appeal site. However, Council Members had legitimate subjective concerns about the impact of the development, which justified their decision. Therefore, the appeal could not have been avoided.

Conclusion

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

A Berry

INSPECTOR