



Costs Decision

Site visit made on 24 January 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2023

Costs application in relation to Appeal Ref: APP/E5330/W/22/3300157 Charlton Liberal Club, 59C Charlton Church Lane, Charlton SE7 7AE

- 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 Liberal Ltd for a partial award of costs against the Council of Royal Borough of Greenwich.
 - The appeal was against the refusal of planning permission for demolition of existing building and erection of a three storey building accommodating five 2-bed flats and one 3-bed flat.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably where the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal and with respect to the substance of the matter under appeal. Examples of unreasonable behaviour may include preventing or delaying development which should clearly be permitted or failure to produce evidence to substantiate each reason for refusal on appeal.
4. The applicant for costs contends that the Council's first and second reasons for refusal, concerning the loss of an existing community use and the loss of an employment use respectively, are spurious. The applicant considers there is obvious evidence to justify the loss of the community use. Furthermore, they consider that Policy EA(a) of the Royal Greenwich Local Plan Core Strategy with Detailed Policies Adopted 30th July 2014 (Core Strategy), concerning the protection of existing employment uses, has been misapplied. The applicant accepts the appeal may have still occurred but maintains the Council's approach to these specific matters has unnecessarily widened its scope.
5. It will be seen from my decision on the planning appeal to which this application relates that I have found the evidence before me to be insufficient to justify the loss of the existing community use. Therefore, I cannot fairly find that the Council acted unreasonably in imposing and defending its first reason for refusing planning permission.

6. With respect to the second reason for refusal, it shall be seen from my decision upon the planning appeal that I have found Policy EA(a) of the Core Strategy to be of limited relevance to my considerations on the basis that the site does not constitute a local employment site. Whilst I do not dispute the Council's consideration that the site's last active use as a social club constitutes an employment generating use, it is not a vacant employment site. It thus follows that the detailed provisions of Policy EA(a) were misapplied, and the second refusal reason was, as a result, imposed unnecessarily. Notwithstanding the Council's assertions to the contrary, this represents unreasonable behaviour.
7. Nevertheless, for costs to be awarded, unnecessary expense must be clearly identifiable. The applicant did not commission a detailed/technical report (or similar) at appeal stage in the interests of disputing the Council's position on this matter. Moreover, a limited proportion of the applicant's written Statement of Case is dedicated to specifically addressing the second reason for refusal, and the matter is touched upon by the applicant in merely succinct terms at final comments stage. As such, substantive additional wasted expense at appeal stage has not been clearly demonstrated.
8. For the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Thus, having had regard to all matters raised, a partial award of costs is not justified.

Ryan Cowley

INSPECTOR