



Costs Decision

Hearing Held on 7 February 2023

Site visit made on 7 February 2023

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 6 March 2023

Appeal Ref: APP/C3810/W/20/3264847

Aldwick House Care Home, 41-45 Nyewood Lane, Bognor Regis PO21 2SJ

- 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 Jamie Copland of Gatwick Bedsits Ltd for a partial award of costs against Arun District Council.
 - The appeal was against a refusal of the local planning authority to grant planning permission for a proposed development described as part change of use from a 32-bed nursing home (C2 Residential Institutions) to a 38-bedsit House in Multiple Occupation (sui generis) comprising 24No single person and 14No two-person bedsits along with separate shower rooms and wcs, demolition of rear conservatory and store and erection of single storey rear extension and with minor external alterations to side elevations and insertion of 4No roof lights on rear elevation and insertion of dormer window serving Room 38 (as detailed in amended plans dated 30 April 2020).
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Preliminary Matters

2. The application and the Council's response were made verbally at the Hearing. The application is limited to costs incurred in relation to redetermination of the appeal following quashing of a previous Decision issued on 29 September 2021 (the quashed Decision).

Reasons

3. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The applicant asserts that the Council acted unreasonably by continuing to defend its reason for refusal on grounds of inadequate amenity space provision. This was despite written evidence presented by the appellant in advance of the Hearing that such a position was inconsistent with the Council's other recent decisions relating to similar cases.
5. As set out within my main Decision, the Council's response at the Hearing was to accept that its reason for refusal was both difficult to sustain and difficult to justify. However, having said as much it did not withdraw its objection despite providing no clear justification for adopting a different approach.

6. The PPG includes failure to determine similar cases in a consistent manner amongst grounds for an award of costs. However, the cases cited by the appellant do not all pre-date the Council's refusal of planning permission. Insofar as it is relevant, the quashed Decision also makes only limited reference to the Council's other decisions. The Council did not otherwise acknowledge that any issue existed in relation to consistency prior to the Hearing.
7. Given my findings above, the Council's failure to withdraw its objection either at the Hearing or indeed prior to it, was however clearly unreasonable. To that end the Council was unable to mount any defence against the applicant's claim for costs.
8. I therefore conclude that unreasonable behaviour resulting in unnecessary expense as described in the PPG has been demonstrated, and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Arun District Council shall pay to Mr Jamie Copland of Gatwick Bedsits Ltd the costs of the appeal proceedings described in the heading of this decision limited to costs incurred in addressing the Council's reason for refusal relating to amenity space provision at the Hearing, including any preparatory work directly related to this, and for lodging the application for costs; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. Mr Jamie Copland of Gatwick Bedsits Ltd is now invited to submit to Arun District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Benjamin Webb

INSPECTOR